

Legal Responsibility for Copyright Infringements of Works Produced Through Artificial Intelligence Based on Law Number 28 of 2014 Concerning Copyright

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ABSTRACT

The development of Artificial Intelligence (AI) has transformed the process of creating works, including works that may fall within the scope of copyright protection in the fields of science, art, and literature. The use of AI raises legal concerns when AI-generated works resemble works owned by other parties or incorporate protected materials without authorization. This issue has become increasingly complex because Law Number 28 of 2014 on Copyright does not specifically establish a legal framework for liability arising from copyright infringement through the use of AI. This study aims to examine copyright protection for works generated through AI and analyze the construction of legal liability when the use of AI results in infringement of the exclusive rights of copyright holders. This study employs a normative juridical method using statutory, conceptual, and case approaches. Legal materials are analyzed qualitatively to examine the relationship between the exclusive rights of copyright holders, the use of AI technology, forms of infringement, and the liability of the parties involved. The findings indicate that copyright protection remains oriented toward protecting the moral and economic rights of copyright holders, even when the creation process involves AI technology. When infringement occurs, legal liability cannot be determined solely on the basis of AI involvement but must consider the form of contribution, degree of control, knowledge, fault, and economic benefit obtained by each party. AI users may bear legal liability when they know to use or commercially exploit outputs that infringe copyright, while the liability of AI developers or platform providers should be determined based on their degree of involvement and applicable legal obligations. The novelty of this study lies in developing a differentiated framework of liability for AI users, developers, and platform providers in copyright infringement, thus ensuring that copyright protection can remain effective while accommodating technological development.

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1. INTRODUCTION

The development of digital technology has transformed the way humans produce, distribute, and utilize intellectual works. One of the most significant developments is the use of generative Artificial Intelligence (AI), which can generate text, images, music, videos, designs, and various forms of creative expression based on commands or prompts given by users. The presence of this technology provides opportunities for society to increase productivity and expand forms of creativity. However, at the same time, AI's ability to produce works quickly and on a large scale raises new challenges for the intellectual property legal system, particularly copyright law, which is traditionally built on the assumption that works arise from human creative activity. Mayana et al. (2024) explain that the development of generative AI has raised fundamental issues regarding copyrightability, authorship, and ownership of works generated through AI. These issues demonstrate that technological development has outpaced existing copyright legal frameworks.

In the Indonesian legal system, Law Number 28 of 2014 concerning Copyright positions creators as subjects who obtain exclusive rights over their creations. These rights include moral rights and economic rights that authorize creators to maintain a personal relationship with their creations while simultaneously obtaining economic benefits from their use. This construction is fundamentally based on the idea that creations are the result of human intellectual ability. Problems then arise when a work is produced with the involvement of AI, especially when the level of human intervention in the creative process is relatively limited. In such conditions, it becomes difficult to determine whether the work can be considered a protected creation, who can be called the creator, and who is entitled to the economic rights inherent in the work. Praja et al. (2025) assess that the development of generative AI presents challenges to the human-centered concept of authorship in Indonesian copyright law.

Legal issues become more complex when the discussion is no longer limited to the protection status of AI-generated works, but shifts to the possibility of infringement of the creations of others. Generative AI can produce output that bears a resemblance to existing works, while the process of generating such output may involve the use of copyrighted data or materials. Under certain circumstances, AI output can then be used for commercial purposes without the consent of the rights holder. This situation raises questions about the boundary between using technology as a creative tool and using technology that results in or facilitates copyright infringement. Rosati (2025) demonstrates that the creation and dissemination phases of AI output can raise various liability issues under copyright law, including those concerning actionable reproduction, allocation of responsibility, and legal defenses available to involved parties.

This issue demonstrates that the presence of AI does not eliminate the creator's exclusive rights. Technology merely changes the way a work is produced and utilized, while the creator's legal interests remain concerned with protecting moral and economic rights. From this perspective, the use of AI as a creative tool must be distinguished from its use as a means to generate content that exploits the work of others without a valid legal basis. This distinction is important because not every work produced using AI can be directly categorized as copyright infringement, just as not every use of AI automatically results in a work that is eligible for protection. Legal assessments must take into account the character of the work, the extent of human contribution, the source material used, the form of use, and the legal consequences for the rights holder.

Research on AI and copyright in Indonesia has grown in recent years. Mayana et al. (2024) identify copyrightability, authorship, and ownership issues in AI-generated works. Putri et al. (2024) emphasize the importance of clarifying the boundaries of AI use in the creative process so that the technology does not diminish human creative contributions. Zakiran et al. (2025) demonstrate that Indonesian law has not yet recognized AI as a subject of intellectual property law and continues to face challenges in determining the status of exclusive rights over works produced by AI. These studies indicate that the issue of AI and copyright concerns not only technological developments but also fundamental questions regarding legal subjects, originality, ownership, and the protection of exclusive rights.

Research developments are also beginning to address the issue of responsibility. Syahrizal (2025) identifies that Indonesian copyright law does not yet provide an explicit and comprehensive instrument for determining liability in copyright infringement related to AI, particularly in distinguishing the roles of users, developers, and system owners. This situation highlights a normative issue that extends beyond the question of whether AI can be a creator. A more concrete issue is determining who is legally responsible when the use of AI produces output that infringes on the exclusive rights of another party. Jubaidi and Khoirunnisa (2025) also show that the development of AI has created a gap between technological developments and the ability of Indonesian copyright regulations to provide legal certainty for digital technology-based works and activities.

The gap becomes more significant because the involvement of parties in the AI ecosystem is not uniform. Users issue commands, select results, make edits, and determine whether AI output will be used for personal or commercial purposes. Developers are responsible for developing the models and characteristics of AI systems, while platform providers supply the infrastructure and services that enable users to access the technology. These differences in the level of involvement mean that responsibility cannot automatically be assigned to one party simply because AI is used in the creation process. Rosati (2025) shows that the allocation of responsibility for AI outputs needs to take into account the context of each case because the involvement of parties in the process of generating and distributing outputs can differ.

In the context of Indonesian law, the gap between *das sollen* and *das sein* becomes more apparent when examined through concrete developments involving AI-generated works. Normatively, Law Number 28 of 2014 concerning Copyright protects the moral and economic rights of creators and provides legal mechanisms for addressing copyright infringement. However, the application of these principles to generative AI raises questions that are not easily resolved through conventional copyright doctrines, particularly regarding authorship, ownership, unauthorized use, and the allocation of legal responsibility.

One relevant example is the public controversy surrounding the AI-assisted animation known as “Tung Tung Tung Sahur,” associated with Indonesian content creator Noxa and its commercial use in connection with Garena Free Fire. The controversy has prompted legal discussion concerning the copyright status of AI-assisted works, the creator's potential economic rights, and the extent to which commercial use by another party may require authorization. The case illustrates the complexity of determining the relationship between the creator of an AI-assisted work, the party commercially exploiting the work, and the legal basis for claiming exclusive rights. Nevertheless, the controversy should not be interpreted as a judicial finding that copyright infringement has occurred. Its relevance to the present research lies in illustrating the practical uncertainty surrounding the protection and commercial exploitation of AI-assisted creations under the existing copyright framework.

A further indication of this emerging legal problem can be found in Constitutional Court Case Number 252/PUU-XXIV/2026. In this proceeding, the applicant raised allegations concerning the use of data, information, or works claimed to belong to him in connection with AI development without authorization or compensation. The Constitutional Court subsequently declared the application to have lapsed (*gugur*) on 23 July 2026 because the applicant did not attend the preliminary hearing. Consequently, the proceeding did not establish the merits of the applicant's claims concerning copyright infringement. Even so, the filing demonstrates that allegations regarding the use of protected works in AI development have entered Indonesia's formal legal arena. This development highlights questions concerning authorization, compensation, access to information, and the ability of rights holders to establish whether their works have been used in AI-related processes.

These developments illustrate the practical dimension of the gap between *das sollen* and *das sein*. While the Copyright Law establishes a general framework for protecting creators and their exclusive rights, AI-related disputes raise additional evidentiary and attribution problems. In cases involving AI-assisted outputs, it may be difficult to establish the extent of human creative contribution, identify the source of potentially protected material, distinguish the respective roles of users and platform providers, and determine whether the disputed use constitutes infringement under applicable law. Similar

difficulties arise when copyrighted works are allegedly used during model training, because the relevant processes may involve technical systems and information that are not readily accessible to rights holders. These circumstances reinforce the need to examine not only whether existing copyright provisions can apply to AI-related activities, but also how legal responsibility can be allocated proportionately among the parties involved.

This issue also relates to proving fault. In copyright infringement cases involving AI, it is not enough to simply prove that an output is similar to an existing creation. It is necessary to analyze how the output was generated, whether protected material was used, the extent to which the user knew or should have known of the potential infringement, and who had control over the process that caused the harm. Therefore, constructing liability needs to consider the level of contribution and control of each party. Such an approach is crucial to prevent two equally problematic possibilities: placing the entire risk on the user without considering the role of the developer or platform, or conversely, placing responsibility on the developer and platform for every user output without considering their level of involvement and culpability.

The issue of responsibility must also be placed within the framework of creator protection. Copyright protection is fundamentally not only about formal recognition of a work, but also about the legal ability to provide remedies when the creator's exclusive rights are violated. If AI output is used commercially and is proven to have reproduced protected elements of a copyrighted work without permission, the creator could suffer economic losses and violations of moral interests. Therefore, the development of AI requires copyright law to maintain protection for creators while providing proportionate limits on liability for parties involved in the use of the technology.

Previous research shows that discussions of AI in Indonesian copyright law are still largely focused on the legal status of AI, authorship, originality, and ownership of works. Praja et al. (2025), for example, focus on the issue of authorship and ownership of AI-generated works, while Zakiran et al. (2025) discuss the implications of AI for intellectual property and exclusive rights. Mayana et al. (2024) also focus on copyrightability, authorship, and ownership. Syahrizal's (2025) research explores legal liability but places the issue within a general framework concerning the potential responsibilities of users, developers, or system owners. Thus, there remains room for developing a more structured analysis of the division of responsibility based on the form of involvement, level of control, knowledge, culpability, and economic benefits obtained by each party.

The research gap addressed in this study concerns the limited legal construction for differentiating the positions of users, developers, and providers of AI platforms when the output generated through these systems results in alleged copyright infringement. This issue is important because AI can be used at several levels, ranging from its use as a creative tool with substantial human contribution to its use as a largely automated tool with limited human intervention. This distinction should have consequences for determining responsibility. Therefore, an analysis is needed that not only questions whether AI-generated works can be protected by copyright, but also examines how the law determines who should be held responsible when the technology is used in a process that harms the rights holder.

The novelty of this research lies in the construction of legal liability that differentiates the positions of users, developers, and providers of AI platforms based on the form of contribution, level of control, knowledge of potential violations, fault, and economic benefits derived from the use of the work. This approach is expected to provide a more proportionate framework for determining legal liability. Accordingly, this research does not position AI as a legal subject that bears responsibility independently, but rather examines liability attributable to humans or legal entities that have a legal and factual relationship with the process of creating, providing, using, or commercializing AI output. This framework aligns with research developments indicating that copyright law remains oriented toward human contributions, while the use of AI requires a regulatory approach that can respond to technological developments without compromising the protection of creators.

Based on this description, this research aims to analyze two main issues. First, how is copyright protection for works produced through Artificial Intelligence regulated under Law Number 28 of 2014

concerning Copyright? Second, how should legal responsibility for copyright infringement committed through the use of Artificial Intelligence be constructed? Both issues are important to examine to ensure that technological developments do not create a gap in the protection of creators' exclusive rights, while also preventing the imposition of disproportionate liability on parties involved in the AI ecosystem.

2. METHODS

This research employs a normative juridical method, which focuses on examining legal norms, principles, and concepts related to copyright protection and legal liability for copyright infringement involving Artificial Intelligence (AI). The research uses two approaches: the statute approach and the conceptual approach. The statute approach is employed to examine the provisions of Law Number 28 of 2014 concerning Copyright, particularly those relating to the definition of creators and creations, moral and economic rights, exclusive rights, and legal mechanisms for addressing copyright infringement. Relevant legal provisions concerning information technology are also considered insofar as they relate to the use and dissemination of AI-generated works. The conceptual approach is used to analyze the legal concepts of authorship, originality, copyright infringement, fault, causation, and legal responsibility. This approach also provides the basis for examining the respective legal positions of AI users, developers, and platform providers in determining responsibility for alleged copyright infringement.

The legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislation governing copyright and relevant provisions concerning information technology. Secondary legal materials comprise legal books, national and international journal articles, previous research, and expert opinions addressing Artificial Intelligence, copyright protection, AI-generated works, authorship, ownership, and liability for copyright infringement. Tertiary legal materials are used to clarify legal terminology and concepts relevant to the research. Legal materials were collected through a literature study by identifying, inventorying, and classifying relevant sources according to two principal research focuses: copyright protection for works produced through AI and the construction of legal liability when the use of AI allegedly infringes the exclusive rights of copyright holders.

The analysis of legal materials was conducted qualitatively using descriptive-analytical and prescriptive methods. Descriptive-analytical analysis was employed to explain the applicable copyright framework, the characteristics of works produced through AI, and the legal issues arising from the use of protected works in AI-related processes. The analysis also examined the relationship between existing copyright provisions and the distinctive characteristics of AI technology, particularly the difficulties associated with identifying authorship, tracing the use of protected material, and establishing the involvement of the parties concerned. Prescriptive analysis was subsequently used to formulate a proportionate framework for legal liability by considering the contribution, degree of control, knowledge of potential infringement, fault, and economic benefits attributable to AI users, developers, and platform providers. Furthermore, the research compared normative conditions (*das sollen*) with the practical legal problems associated with the use of AI (*das sein*) to identify regulatory limitations and develop a legal construction that can strengthen legal certainty and the protection of copyright holders without unnecessarily restricting technological development.

3. FINDINGS AND DISCUSSION

3.1. Copyright Protection for Works Produced through Artificial Intelligence Based on Law Number 28 of 2014 concerning Copyright

The development of generative Artificial Intelligence (AI) has changed the way intellectual works are produced. This technology allows users to generate text, illustrations, music, videos, designs, and various other forms of expression through specific commands or prompts. This change presents legal challenges because the process of producing a work no longer always occurs

through direct human creative activity. In the Indonesian copyright legal system, this condition needs to be examined within the framework of Law Number 28 of 2014 concerning Copyright, which is based on the concept of the creator as a human being. Article 1 number 2 of the Copyright Law defines a creator as a person or persons who produce a work that is unique and personal, while a creation is defined as a work in the fields of science, art, and literature that is born from inspiration, ability, thought, imagination, dexterity, skill, or expertise expressed in a tangible form. This construction indicates that human intellectual contribution remains a crucial consideration in determining the relationship between creativity and copyright protection.

Consequently, AI cannot automatically be positioned as a creator or copyright holder because it is not recognized as a legal subject under the Copyright Law. The central question is therefore not simply whether AI can produce a form of expression, but whether identifiable human creative contributions can be attributed to the resulting work. Kristanti et al. (2025) demonstrate that the increasingly autonomous capabilities of generative AI challenge the traditional assumption that technology serves solely as a human-controlled tool in the creative process. This issue has implications for copyrightability, authorship, and ownership. Accordingly, the use of AI cannot automatically justify excluding every AI-assisted work from copyright protection, but neither does the provision of a prompt automatically establish exclusive rights over the resulting output.

A more appropriate approach is to examine the level and nature of human contribution throughout the creative process. Users may provide initial concepts, determine the character of a work, compose detailed prompts, select outputs, edit AI-generated results, combine them with independently created material, or make substantive modifications to the final product. The stronger and more identifiable the user's creative contribution to the final expression, the stronger the basis for considering whether that contribution qualifies for copyright protection. Conversely, when a work is generated predominantly through automated processes with minimal human creative intervention, attributing authorship to the user becomes more difficult. Praja et al. (2025) show that this issue directly challenges the human-centered concept of authorship under Indonesian copyright law.

However, the assessment of human contribution should not be limited to the length or technical detail of a prompt. A more fundamental question is whether the prompt itself contains a form of expression that can be protected by copyright or merely communicates an idea, concept, method, or instruction. This distinction is particularly important because copyright does not protect every intellectual effort or creative intention in the abstract. Rather, protection concerns qualifying expressions of intellectual creation. Consequently, a detailed prompt may demonstrate substantial effort without necessarily satisfying the requirements for copyright protection. The legal analysis must distinguish the user's contribution to directing the AI system from the user's contribution to an expression that is independently eligible for protection.

This distinction can be examined through the doctrine of the *idea-expression dichotomy*. Under this doctrine, an idea, concept, theme, method, or general instruction must be distinguished from the particular expression through which it is communicated. In the context of generative AI, an instruction such as "create an illustration of a traditional Indonesian village at sunset" generally communicates a subject, setting, and intended atmosphere. Although the instruction directs the system toward a particular result, it does not necessarily demonstrate a sufficiently developed and original expression that can be protected independently. The subject of a traditional village, the time of day, and the general visual atmosphere remain ideas or creative directions rather than exclusive expressions attributable to the person providing the prompt.

A different assessment may be appropriate where a prompt contains a sufficiently developed combination of original wording, narrative structure, dialogue, characterization, and specific expressive choices. For example, a prompt that includes an original narrative passage, distinctive dialogue, and a carefully structured sequence of descriptive elements may contain expression that warrants separate consideration under copyright law. Nevertheless, the existence of detailed

language does not automatically establish copyright protection. The assessment must determine which elements reflect the user's own intellectual creation and which elements merely describe the desired output, invoke conventional concepts, or specify the functional requirements of the AI system. Even when the prompt itself qualifies for protection, such protection would extend only to the eligible expression contained in the prompt, not automatically to every element of the output subsequently generated by the AI.

This distinction is consistent with the general structure of Law Number 28 of 2014 concerning Copyright. Article 1 number 3 defines a creation as a work in the fields of science, art, and literature that results from inspiration, ability, thought, imagination, dexterity, skill, or expertise and is expressed in a tangible form. Article 40 identifies categories of works that may receive copyright protection, including books, written works, illustrations, paintings, and other qualifying expressions. Read together, these provisions provide a basis for examining whether a prompt constitutes an identifiable written expression rather than merely an abstract idea or instruction. However, the legislation does not expressly establish a separate copyright category for AI prompts or provide a specific test for determining when such prompts qualify for protection. Therefore, their legal status must be assessed through the existing statutory framework rather than by assuming that every prompt is automatically protected or automatically excluded.

The originality requirement is also essential to this assessment. Under Indonesian copyright law, originality should be examined in relation to the intellectual contribution embodied in the work, rather than being equated with novelty in the patent-law sense. A work does not necessarily have to introduce a completely unprecedented idea to qualify for protection. Nevertheless, the relevant expression must be attributable to the creator's own intellectual contribution and must satisfy the applicable requirements of copyright law. In the context of AI prompts, originality therefore requires more than the provision of a command that produces a desired result. It requires an assessment of whether the wording or arrangement of expressive elements reflects the user's own creative choices in a form that can be distinguished from the underlying idea, function, or instruction.

For example, a prompt consisting of a short instruction to generate a landscape image would ordinarily provide limited grounds for claiming copyright protection over the instruction itself. By contrast, a prompt containing an original literary passage, distinctive character descriptions, and a carefully arranged sequence of expressive details may warrant closer examination. The relevant consideration is not simply how many words the user employs, but whether the prompt contains protectable expression attributable to the user. This distinction also prevents the possibility that granting protection to prompts could improperly restrict other users from expressing the same general ideas or requesting similar subject matter from an AI system.

In this context, a prompt must also be distinguished from the output it produces. The prompt is an input through which a user communicates instructions or expressive choices to an AI system, whereas the output is the material generated in response to those instructions. Although a prompt may influence the characteristics of the resulting work, the causal relationship between the prompt and the output does not automatically establish that the user is the copyright owner of the entire output. The assessment must separately consider the originality and protectability of the prompt, the degree of human creative intervention in the final output, and the extent to which the output contains expression attributable to the user. This distinction is important because a prompt may itself contain protectable expression while the resulting output may still lack sufficient identifiable human creative contribution to support a claim of authorship.

Table 1. Legal Status of Works Based on the Level of Human Contribution in the Use of Artificial Intelligence

Forms of AI Use	Human Contribution	Legal Position that Can Be Analyzed	Protection Issues
AI generates a work based on a simple prompt	Low	Human authorship of the output is difficult to establish directly	Originality and attribution of authorship
Users provide detailed prompts and select outputs	Variable	The prompt and output must be assessed separately to determine the existence of protectable human expression	Distinction between ideas and expression
AI generates a work that the user subsequently edits substantially	High, depending on the actual contribution	Human-authored modifications may qualify for protection if they satisfy the applicable requirements	Separation of AI-generated and human-created elements
AI is used as a tool in the creation process	Substantial human creative contribution	The work may be attributable to a human creator where the qualifying human contribution can be identified	Evidence of human creative contribution
AI output uses or resembles the work of another creator	Variable	Protection of the user's contribution does not eliminate the rights of other copyright holders	Potential copyright infringement

The table demonstrates that copyright protection for AI-assisted works cannot be resolved through a binary approach in which all AI-generated works are either protected or unprotected. The more appropriate approach is to identify the nature of the human contribution and determine whether it constitutes protectable expression under the Copyright Law. In particular, detailed prompting should not be treated as conclusive evidence of authorship. The prompt's content, the originality of its expression, the user's subsequent creative intervention, and the relationship between the prompt and the final output must all be considered. This approach preserves the distinction between providing creative direction and making an identifiable contribution to a protected work.

The next issue relates to originality in the output itself. Copyright protection is not granted solely because a result takes the form of text, images, music, or another medium of expression. Rather, the relevant work must satisfy the requirements for protection under applicable law. In the context of generative AI, originality becomes more complex because outputs are generated through models that process patterns derived from large amounts of data. This raises the question of whether a particular output reflects identifiable human creative choices or is predominantly the result of automated generation. Zakiyah et al. (2025) demonstrate that the development of AI raises issues concerning intellectual property and exclusive rights because Indonesian law does not

recognize AI as an independent legal subject. Consequently, the relationship between users, AI-generated outputs, and exclusive rights requires a more precise legal construction.

An overly simplistic legal approach could create two problems simultaneously. First, if every AI-assisted work is automatically deemed ineligible for protection, works containing identifiable human creative contributions may be denied protection without an adequate assessment of their individual characteristics. Second, if all AI outputs are automatically granted protection to users, exclusive rights may be attributed to works without sufficient consideration of human authorship and originality. The same concern applies to prompts: automatically protecting every prompt could extend copyright beyond its proper scope by granting exclusive control over general ideas, subjects, methods, or instructions. Conversely, refusing to consider the expressive content of all prompts could overlook original written material created by human users. Both possibilities demonstrate the need to distinguish ideas from expressions and to evaluate human contributions on a case-by-case basis. Zakiyah et al. (2025) similarly show that generative AI challenges the traditional foundations of Indonesian copyright law, which is oriented toward human creators.

Apart from issues of authorship, copyright protection is also related to moral rights and economic rights. Article 4 of Law Number 28 of 2014 emphasizes that copyright is an exclusive right consisting of moral rights and economic rights. Moral rights concern the personal relationship between creators and their creations, while economic rights provide the authority to obtain economic benefits from the use of a creation. In the context of AI, these rights remain relevant when human-authored works are processed, modified, or used through AI technology. The use of AI does not in itself eliminate the rights attached to pre-existing works (Li, 2025; Cooper et al., 2025).

This issue becomes crucial when users input protected works into AI systems or produce outputs that bear substantial resemblance to the creations of others. At that point, the legal issue shifts from the mere status of AI-generated works to the protection of pre-existing human works. Maria and Fakrulloh (2025), through their study of the use of copyrighted works as training data for AI models, identify a regulatory gap in Indonesian law regarding the use of protected works as training data. This issue has the potential to affect both the economic and moral rights of creators and demonstrates that AI-related copyright risks arise not only at the output stage but also during model development and training.

Copyright protection in the AI ecosystem must therefore be considered at two distinct levels. The first concerns works produced through AI with identifiable human contributions. At this level, the principal issue is whether the user's creative contribution satisfies the statutory requirements for a protected creation. The second concerns the use of works belonging to others in AI training or output generation. At this level, the central question is whether the use of protected material interferes with the exclusive rights of the original copyright holder. These two levels should not be conflated because the recognition of a user's contribution to an AI-assisted work does not automatically authorize the use of another creator's protected expression.

The distinction is important because a single AI-assisted work may involve two separate legal interests. A user may contribute original text, expressive choices, or substantial editing to the final product, while the product may also contain elements derived from or substantially similar to a pre-existing protected work. Recognizing the user's eligible contribution does not automatically remove the obligation to respect the rights of other creators. Copyright protection for AI users and protection for existing rights holders must therefore be balanced to prevent technological development from creating new opportunities for the unauthorized appropriation of exclusive rights (Buick, 2025; Sanjaya & Rajavenkatesan, 2025).

These issues demonstrate that Law Number 28 of 2014 continues to face interpretive challenges in the context of generative AI. The law provides basic concepts regarding creators, creations, moral rights, and economic rights, but does not expressly regulate the legal status of AI-generated works, the protectability of prompts, the use of training data, or the division of

responsibility between users, developers, and AI platform providers. Mayana et al. (2024) assess that AI development has generated questions concerning copyrightability, authorship, and ownership that have not been fully addressed by the Indonesian legal framework. These findings are reinforced by Praja et al. (2025), who identify the need to reconsider the application of authorship principles so that Indonesian law can provide legal certainty without abandoning the principle that copyright protection is oriented toward human creative contributions.

Accordingly, legal protection for works produced through AI should be based on an assessment of identifiable human creative expression and the applicable statutory requirements. AI may function as an instrument that assists humans in producing works, but it cannot itself be positioned as a creator under Law Number 28 of 2014. Protection may be available for qualifying human-authored elements where their creative contribution can be identified and demonstrated. In relation to prompts, the decisive consideration is not their length or technical complexity, but whether they contain original expression rather than merely an idea, subject, method, or instruction. Similarly, the protectability of an AI-generated output must be assessed separately by examining the human contribution embodied in the final work. The smaller the identifiable human creative contribution and the more dominant the automated process, the more difficult it becomes to establish a basis for attributing copyright ownership to the user (Mazzi, 2024; Gaffar & Albarashdi, 2025).

Ultimately, copyright protection for AI-assisted works is not simply a matter of accepting or rejecting the technology. The central challenge is to preserve the fundamental principles of copyright while responding to changes in the creative process. Indonesian law must provide a coherent basis for determining who can be considered a creator, which expressions qualify for protection, and how the use of existing works in AI-related processes should be assessed. Under the current framework, AI cannot independently hold copyright as a creator, and the attribution of rights must therefore be linked to qualifying human contributions. At the same time, the protection of such contributions must not override the exclusive rights of other creators whose works are used in the development or utilization of AI. Copyright protection for AI-assisted works should consequently be based on a balanced assessment of human creative contribution, originality, the distinction between ideas and expressions, and respect for the exclusive rights of other creators.

3.2. Construction of Legal Responsibility for Copyright Infringement through the Utilization of Artificial Intelligence

The issue of legal liability in the use of Artificial Intelligence (AI) arises when the technology is no longer used merely as a creative aid but produces output that is suspected of violating the exclusive rights of copyright holders. In such circumstances, AI cannot be positioned as a party that independently bears legal responsibility because AI systems are not recognized as legal subjects under Law Number 28 of 2014 concerning Copyright. The legal issue therefore lies in identifying the human or legal entity that has a relevant relationship with the alleged infringement. Syahrizal (2025) shows that Indonesian copyright law still faces limitations in determining responsibility when violations occur through AI, particularly because there is no specific normative instrument that comprehensively regulates the division of responsibility between users, developers, and system providers.

In copyright law, liability is fundamentally related to conduct that interferes with the exclusive rights of creators. The involvement of AI does not automatically eliminate the possibility of infringement. If a person uses AI-generated output to reproduce, distribute, publish, display, or commercially exploit another party's creation without a legally valid basis, the use of AI cannot in itself justify the elimination of liability. The relevant questions concern whether the party knew or reasonably should have known of the potential infringement, exercised control over the relevant activity, or actively contributed to the conduct that caused the alleged harm. Rosati (2025)

emphasizes that AI output can give rise to liability issues at both the reproduction and dissemination stages, meaning that responsibility must be assessed according to the circumstances of each case.

This approach is important because the generation and distribution of AI output involve multiple stages that are not necessarily controlled by the same party. Users provide prompts, select or modify outputs, and determine how the results are used. Developers design and develop AI models, while platform providers supply access to systems and services and may establish rules governing their use. In certain circumstances, copyright holders may suffer harm from the output, even though the parties involved in its creation and dissemination occupy different legal positions. Accordingly, liability should not be determined solely by identifying the person who last used or distributed the work. Instead, the analysis must consider the contribution, control, knowledge, and applicable legal obligations of each party.

The construction of platform liability must also be examined in relation to Indonesia's electronic information and transaction regulations. The concept commonly referred to as *Safe Harbor* provides a framework for determining the circumstances in which certain electronic system operators may obtain protection from legal liability for prohibited electronic information transmitted or distributed through their systems. In Indonesia, this framework is particularly relevant to the obligations of Electronic System Operators (*Penyelenggara Sistem Elektronik*, or PSE), although its application depends on the operator's legal classification, the nature of its services, and its compliance with the applicable requirements.

Article 15 of Law Number 11 of 2008 concerning Electronic Information and Transactions, as amended, including by Law Number 1 of 2024, establishes obligations relating to the reliable, secure, and responsible operation of electronic systems. These obligations provide an important legal basis for assessing the conduct of electronic system operators. They must be considered alongside Law Number 28 of 2014 concerning Copyright, which protects the moral and economic rights of creators. Consequently, the analysis of platform responsibility for AI-related copyright infringement requires consideration of both the substantive copyright obligations and the regulatory duties governing electronic system operations.

A more specific framework is provided by Minister of Communication and Informatics Regulation Number 5 of 2020 concerning Private Electronic System Operators, as amended by Minister of Communication and Informatics Regulation Number 10 of 2021. Article 9 of the 2020 Regulation requires private electronic system operators to manage their electronic systems and electronic information or documents reliably, securely, and responsibly. It also requires operators to ensure that their systems do not contain or facilitate the dissemination of prohibited electronic information or documents. Article 10 further requires private electronic system operators falling within the user-generated-content category to establish information governance mechanisms and provide reporting facilities through which the public can submit complaints regarding prohibited content.

Article 11 of the same Regulation provides that a private user-generated-content electronic system operator may be released from legal responsibility for prohibited electronic information or documents transmitted or distributed through its system if the operator has fulfilled the relevant obligations under Articles 9 and 10, provides subscriber information concerning the user who uploaded the prohibited material for supervision or law enforcement purposes, and removes the prohibited content through an access-termination mechanism (*take down*). These requirements demonstrate that the Indonesian Safe Harbor framework is conditional rather than an automatic exemption from liability. Compliance with the applicable governance, reporting, cooperation, and removal obligations is central to determining whether the operator may benefit from the protection provided by the regulation.

Nevertheless, the scope of this framework must be interpreted carefully in the context of generative AI. A platform that merely hosts or distributes user-uploaded material does not

necessarily occupy the same legal position as a provider that develops an AI model, processes prompts, generates outputs, or commercially exploits AI-generated content. The Safe Harbor provisions concerning user-generated content cannot automatically be extended to every activity performed by an AI service provider without examining the nature of the service and the relevant legal provisions. In particular, a claim involving unauthorized use of copyrighted material during model training may raise different questions from a complaint concerning infringing content uploaded by a user or an AI-generated output subsequently distributed through a platform.

Accordingly, Safe Harbor should be integrated into the construction of liability as a conditional regulatory framework for assessing platform obligations, rather than as a general immunity from copyright claims. Where a platform functions as a user-generated-content service, its compliance with the applicable content governance, reporting, cooperation, and take-down requirements becomes relevant to determining whether the statutory conditions for exemption have been satisfied. Where a platform develops or operates a generative AI model, its responsibility must also be assessed in light of its actual activities, degree of control, knowledge of the relevant risks, and contribution to the alleged infringement. This distinction is necessary to prevent both the imposition of automatic liability on platforms for every user-generated output and the use of Safe Harbor as a justification for avoiding responsibility for a platform's own legally relevant conduct.

The construction of responsibility must therefore distinguish between the positions of AI users, developers, platform providers, copyright holders, and commercial parties. Each party should be assessed according to its actual involvement and the applicable legal framework.

Table 2. Construction of the Parties' Responsibilities in Copyright Infringements through Artificial Intelligence

Party	Forms of Involvement	Accountability Parameters	Potential Liability
AI users	Providing prompts, selecting and modifying outputs, and determining their use	Knowledge, fault, control over use, purpose, and economic benefit	May be held liable where the relevant elements of copyright infringement are established
AI developers	Designing, training, and developing AI models	Model design, contribution to the alleged infringement, knowledge of risks, degree of control, and preventive measures	Liability may arise where legally relevant conduct, contribution, or fault is established
Platform providers and PSEs	Providing AI services, access to systems, content hosting, or distribution facilities	Nature of the service, degree of control, knowledge of alleged infringement, reporting mechanisms, response to complaints, take-down compliance, and applicable Safe Harbor conditions	Responsibility depends on the provider's actual role, applicable legal obligations, and satisfaction of any conditions for exemption
Copyright	Owning or	Evidence of ownership,	May pursue remedies

holders	controlling the relevant protected work	identification of the protected work, and evidence of unauthorized use	available under applicable copyright law
Commercial parties	Using or obtaining economic benefits from AI-generated output	Knowledge, commercial use, contribution to the alleged infringement, and economic benefit	May be held liable where the applicable elements of infringement are established

The table demonstrates that a uniform approach to allocating responsibility is inappropriate. Each party must be assessed according to its actual contribution to the alleged infringement and its position under the applicable legal framework. Users are generally closest to the decision to use and commercialize AI output. If a user knowingly directs an AI system to imitate a specific protected work and subsequently exploits the resulting output commercially without a valid legal basis, the relationship between the user's conduct and the copyright holder's alleged harm becomes more direct. By contrast, a user who had no reasonable knowledge of the potential infringement and promptly responds to a substantiated complaint occupies a different factual position. Knowledge, fault, and control are therefore important parameters in evaluating liability.

The same contextual approach is necessary when examining the responsibility of AI developers. Generative AI models can produce numerous outputs based on different prompts and user interactions. Therefore, the fact that a model is capable of generating problematic content does not, by itself, establish that its developer is liable for every output. The relevant analysis should examine whether the developer made a legally relevant contribution to the infringement, whether the system was designed or configured in a manner that contributed to the disputed conduct, whether a specific risk was known or reasonably foreseeable, and whether appropriate preventive measures were available. These considerations allow developer liability to be assessed proportionately rather than being presumed solely from the existence of a potentially infringing output.

Different issues arise during the training stage of AI models. Generative models are developed using large amounts of data, raising questions about whether copyrighted works have been used without authorization. Bačárová (2025) explains that AI input and output raise distinct legal questions, including the legality of the data sources used to train a system and the protection of the resulting output. Accordingly, possible infringement cannot be examined solely at the point when AI-generated content is distributed. The use of protected material during model development may also require legal assessment, particularly where the relevant acts implicate the exclusive rights of copyright holders.

This distinction is reinforced by Yang (2024), who differentiates between infringement issues at the pre-training stage and those arising during output generation. Unauthorized use of copyrighted works during pre-training may raise questions concerning the conduct of AI developers or service providers, while infringement risks at the generation stage may be influenced by system design, model characteristics, user prompts, and subsequent use of the output. These different stages demonstrate that an alleged infringement does not necessarily originate from a single act or party. Responsibility must therefore be examined in relation to the particular activity that allegedly interfered with the creator's rights.

In the Indonesian context, Law Number 28 of 2014 does not expressly establish a comprehensive framework for allocating liability among AI users, model developers, and platform providers in relation to model training and AI-generated outputs. Jubaidi and Khoirunnisa (2025) identify a gap between the development of AI and Indonesia's copyright regulatory framework.

This gap becomes particularly relevant when a copyright holder seeks to determine whether a protected work was used during model training, whether an output reproduces protected expression, or which party had the ability and legal obligation to prevent or remedy the alleged infringement. The applicable electronic system regulations provide additional obligations for relevant PSEs, but they do not eliminate the need to establish the elements of a copyright claim under the Copyright Law.

The Safe Harbor framework provides an additional parameter for evaluating the responsibility of platform providers, particularly where they operate services that host, display, transmit, or distribute content uploaded by users. Under Articles 9–11 of Minister of Communication and Informatics Regulation Number 5 of 2020, relevant obligations include the establishment of content governance mechanisms, the provision of public reporting facilities, the handling of complaints, cooperation with lawful supervision or enforcement processes, and the removal of prohibited content in accordance with the applicable provisions. Compliance with these requirements is relevant to determining whether a qualifying user-generated-content operator may obtain the conditional exemption provided under Article 11.

In the context of AI-related copyright disputes, the application of this framework requires a distinction between receiving a complaint about content distributed through a platform and being directly involved in the creation or use of the allegedly infringing material. For example, if a user uploads an AI-generated image that allegedly reproduces a protected illustration, the platform's response to a sufficiently specific complaint may be relevant to its obligations as a service provider. The analysis should consider whether the service falls within the applicable regulatory category, whether the content qualifies as prohibited information under the relevant provisions, and whether the operator has complied with its legal duties. The existence of a complaint does not automatically establish copyright infringement, and the applicability of Safe Harbor must not be presumed without examining the statutory requirements.

A different analysis is required where the allegation concerns the use of copyrighted works to train an AI model operated by the platform provider itself. In such circumstances, the disputed conduct may involve the provider's own development or processing activities rather than merely the transmission or distribution of content uploaded by a user. The conditional exemption available to qualifying user-generated-content operators cannot automatically resolve liability for those separate activities. Instead, the relevant conduct must be assessed under copyright law and other applicable regulations, taking into account the provider's role, the rights involved, and the evidence establishing the alleged unauthorized use.

The Safe Harbor framework also highlights the importance of transparent complaint-handling and content-removal mechanisms. Article 10 of Minister of Communication and Informatics Regulation Number 5 of 2020 requires relevant user-generated-content operators to provide reporting facilities and establish procedures for responding to complaints. These requirements are relevant because copyright holders may face difficulties identifying the source of AI-generated material or determining which party has control over the disputed content. Effective reporting and response mechanisms can help rights holders communicate their claims and enable platforms to assess whether further action is required under the applicable law.

However, the existence of reporting mechanisms should not be interpreted as an obligation to remove every item of content merely because a complaint has been submitted. The applicable regulatory framework distinguishes prohibited information from material that does not meet that classification, and the legal status of disputed content must be assessed in context. A balanced approach is therefore necessary to protect copyright holders while avoiding unjustified restrictions on lawful expression and legitimate uses of AI technology. The assessment should consider the nature of the complaint, the identification of the protected work, the basis for claiming infringement, and the legal obligations applicable to the relevant platform.

The relationship between platform responsibility and economic benefit also requires careful consideration. A provider may obtain revenue from subscriptions, advertising, or other commercial activities associated with an AI service. Nevertheless, economic benefit alone does not establish copyright infringement or automatically defeat an otherwise applicable statutory exemption. The relevant questions include whether the provider's conduct contributed to the alleged infringement, whether the provider had knowledge of the relevant circumstances, whether it exercised control over the disputed activity, and whether it fulfilled its legal obligations. Economic benefit is therefore one factor in the overall assessment rather than a substitute for establishing the applicable elements of liability.

This approach is consistent with Rosati's (2025) emphasis on examining the specific circumstances of AI-related disputes when allocating responsibility. Platform providers should not automatically be held liable for every output generated by their systems, but neither should their role be disregarded where their own activities or failures to comply with applicable obligations are legally relevant. The Safe Harbor framework contributes to this analysis by establishing conditions under which certain PSEs may obtain protection in relation to prohibited user-generated content. It does not replace the substantive copyright analysis or create a universal exemption for all AI-related activities.

The construction of legal responsibility should therefore adopt a role-based approach that distinguishes the conduct of users, developers, and platform providers. This approach does not presume that any party is always responsible merely because AI technology is involved. Instead, it evaluates the relationship between each party's conduct and the alleged infringement, taking into account the form of contribution, degree of control, knowledge of potential violations, fault, preventive measures, and economic benefit. In the case of platform providers, these factors must be considered together with their classification as PSEs, the nature of their services, and the applicable Safe Harbor conditions.

AI users can generally be linked more directly to infringement when they determine the purpose and use of the output. For example, if a user intentionally instructs an AI system to reproduce distinctive elements of a particular protected work and subsequently sells the output, the user's conduct may provide a stronger basis for examining liability. In such circumstances, AI is more appropriately viewed as a technological instrument used by a human to carry out an activity with legal consequences. The use of AI does not remove the need to assess the user's own actions under copyright law.

AI developers occupy a different position because they may not know every output generated by a system or control every subsequent user action. Their liability should therefore be linked to demonstrable conduct or omissions that are legally relevant to the infringement. Relevant considerations include whether the developer knew of a specific risk, whether the system design contributed to the disputed reproduction, whether reasonable preventive mechanisms were available, and whether a foreseeable risk was disregarded. These parameters support a proportionate approach to developer liability (Gaidartzi & Stamatoudi, 2025).

Platform providers must be evaluated according to the services they actually perform. A provider that hosts user-uploaded material may be subject to the content governance and conditional Safe Harbor framework applicable to user-generated-content PSEs. A provider that develops a model, processes training data, or directly generates outputs may also need to be assessed in relation to those activities. Accordingly, the legal analysis should distinguish between liability for user-generated content distributed through a platform and liability arising from the provider's own conduct. The provider's knowledge, control, response to complaints, compliance with applicable obligations, and contribution to the alleged infringement are relevant considerations. Rosati (2025) emphasizes that the allocation of responsibility for AI outputs must reflect the specific context in which the output is generated and distributed.

Another important aspect is the relationship between infringement and economic gain. Copyright infringement may have an economic dimension where a protected work is used for profit without the authorization required by law. The profit obtained from AI-generated output may therefore be relevant to determining the role of a particular party. However, economic gain alone is insufficient to establish infringement. The analysis must also examine how the benefit was obtained, whether the party's conduct interfered with protected rights, and whether the applicable legal requirements for liability or exemption have been satisfied.

From the perspective of creator protection, accountability mechanisms must provide effective remedies. If AI-generated output is established to infringe copyright, creators may require mechanisms to stop unauthorized use, obtain appropriate economic redress, and protect their moral rights. Dispute resolution through the Commercial Court and alternative dispute resolution mechanisms remains relevant under the applicable legal framework. Nevertheless, the effectiveness of these mechanisms depends partly on the ability of copyright holders to identify the disputed work, substantiate their rights, and establish the conduct of the responsible party (Bačárová, 2025; Zalil et al., 2025).

The difficulty of proving infringement remains one of the principal challenges in AI-related copyright disputes. Copyright holders may identify substantial similarities between their works and AI-generated outputs without knowing how the system generated the relevant material. The lack of transparency in algorithmic processes may create an information imbalance between creators and technology providers. Syahrizal (2025) identifies transparency concerning training data and algorithmic traces as an important issue in determining the source of alleged violations and the allocation of responsibility.

Accordingly, effective legal protection should consider the need for traceability, meaning the ability to obtain relevant information about the process through which AI output was generated. Traceability does not necessarily require the public disclosure of source code or confidential technical information. Rather, appropriate mechanisms should enable relevant information to be obtained when a substantiated infringement claim requires examination. Such mechanisms may assist in determining whether an alleged violation is more closely connected to user conduct, model development, the use of training data, platform distribution, or a combination of these activities.

The construction of liability should therefore distinguish between substantive copyright responsibility and the conditional protection available under the Safe Harbor framework. Users may be held liable where their conduct satisfies the applicable elements of infringement. Developers may be held liable where their own legally relevant conduct or omissions establish responsibility. Platform providers must be assessed according to their role, applicable electronic system obligations, and any conditions for exemption that may apply to their services. This approach is consistent with the need to establish responsibility through legally relevant conduct rather than presuming liability solely from the involvement of AI technology (Feng, 2024; Chadijah et al., 2025).

This construction also establishes an important limitation: AI cannot be treated as an independent legal actor to divert responsibility from the humans or legal entities involved. AI is a technological system used within activities that are developed, directed, provided, or controlled by legal subjects. Therefore, the assessment of liability must focus on the parties that have a legally relevant connection to the conduct that allegedly caused the infringement. Praja et al. (2025) similarly emphasize that AI cannot presently be positioned as a legal subject under Indonesian law, meaning that the legal consequences of its use must be assessed in relation to the humans or legal entities behind the relevant activities.

Based on this analysis, Indonesian copyright law provides a foundation for protecting the moral and economic rights of creators, while electronic system regulations establish additional obligations for relevant PSEs. However, the construction of responsibility in the context of AI

requires a coordinated interpretation of these legal frameworks. The absence of a specific and comprehensive allocation of liability for AI-related copyright infringement does not mean that such conduct falls outside the law. Rather, existing copyright and electronic system provisions must be applied according to their respective scopes, requirements, and legal consequences. The Safe Harbor framework is relevant to determining the conditions under which qualifying user-generated-content operators may be released from certain forms of legal responsibility, but it should not be interpreted as a universal exemption covering every activity of an AI developer or platform provider.

Ultimately, a proportionate structure of legal responsibility must protect two interests simultaneously. Copyright holders must receive effective protection against unauthorized use of their creations, while users, developers, and platform providers should not be burdened with liability without an adequate legal basis and assessment of their respective conduct. A role-based allocation of responsibility, integrated with the applicable Safe Harbor conditions for qualifying PSEs, offers a more coherent approach to addressing copyright infringement involving AI in Indonesia. The principal challenge is not merely determining whether AI can produce creative works, but establishing how the law identifies, proves, and allocates responsibility when AI-related activities interfere with the exclusive rights of copyright holders.

4. CONCLUSION

Copyright protection for works produced through Artificial Intelligence (AI) under Law Number 28 of 2014 concerning Copyright fundamentally depends on the existence of human creative contribution. The use of AI does not automatically exclude a work from copyright protection; rather, its legal status should be determined by assessing the extent of human involvement in developing concepts, providing substantive direction, selecting outputs, editing, and modifying generated content. Conversely, outputs generated entirely through automated processes raise questions regarding authorship and copyright ownership. In addition, the use of AI must not undermine the exclusive rights of existing copyright holders when protected works are used for AI training or reproduced in generated outputs without an applicable legal basis. Therefore, the current copyright framework requires more specific provisions addressing human authorship, AI-assisted creation, the use of copyrighted materials for AI training, and the protection of existing rights holders.

Legal liability for copyright infringement involving AI should not be imposed automatically on a single party merely because AI technology is involved. Instead, liability should be determined proportionately by considering each party's role, contribution to the infringement, knowledge of the relevant risks, degree of control, capacity to prevent harm, and economic benefit obtained. Users may be held responsible for knowingly or negligently using, distributing, or commercializing infringing outputs, while developers and platform providers should be assessed according to their respective functions, knowledge, control, and compliance with preventive and remedial obligations. Accordingly, AI should be treated as a technological instrument rather than an independent legal subject, with responsibility attributed to the relevant natural or legal persons based on their conduct and degree of fault. This approach enables copyright enforcement while maintaining legal certainty and supporting responsible technological development.

To address the identified regulatory uncertainty, this study recommends that the Indonesian legislature introduce specific provisions on AI and copyright through amendments to Law Number 28 of 2014 concerning Copyright. These provisions should clarify the criteria for human creative contribution, determine the legal status and ownership of AI-assisted works, regulate the use of copyrighted materials for AI training, and establish a role-based framework for allocating liability among users, developers, model providers, and digital platforms. Furthermore, the Government should establish a Government Regulation or equivalent implementing provisions governing copyright-related AI activities, including licensing and authorization requirements,

complaint and notification procedures, proportionate content-removal mechanisms, evidence preservation, and accessible dispute resolution. The regulation should also clarify the conditions for safe-harbour protection for electronic system operators, ensuring that such protection does not constitute blanket immunity for AI providers involved in their own potentially infringing activities. Coordination between the Directorate General of Intellectual Property, the ministry responsible for digital affairs, creators, and technology providers is essential to develop practical implementation guidelines. These measures would transform general principles of authorship and liability into enforceable standards, providing more effective protection for copyright holders while preserving legal certainty and responsible AI innovation in Indonesia.

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