# Copyright Disputes over AI - Generated Content in Model - Generated Works——Starting from the Infringement Case of Ultraman Model - Generated Content

Yuan Tianrui

**Affiliation**: Qufu normal university, Qufu city, Shandong province, China
**Email:** qfnuytr060315@qq.com

## Abstract

The rise of the Internet has had a significant impact on our lives, bringing both opportunities and challenges. Recently, the copyright infringement case of Shanghai New Creation Culture Development Co., Ltd. suing Shuimu Intelligence Co., Ltd. over AI - generated content has attracted widespread social attention. Whether AI - generated works in model applications are works protected by copyright law, how to allocate copyright ownership if they are works, and how to divide the burden of proof in subsequent rights and obligations disputes. These issues are not only the core of individual case disputes, but also reflect the impact and challenges of AI technology on the existing legal system, which urgently needs to be addressed from the perspectives of legal interpretation and practical application.

**Keywords**: AIGC; AI - generated works; AI model - generated content

## 1. Basic Case

In recent years, business models relying on artificial intelligence models to provide personalized services have emerged rapidly, such as AI painting and AI design. However, the conflict between technological application and rights protection has become increasingly prominent. The copyright infringement and unfair competition case of Shanghai Xinchuang Culture Co., Ltd. (hereinafter referred to as Xinchuang Culture Company) suing Hangzhou Shuimu Intelligence Co., Ltd. (hereinafter referred to as Shuimu Intelligence Company) (hereinafter referred to as the copyright infringement case of Xinchuang Culture Company against Shuimu Intelligence Company) is a typical example.

With the authorization of Tsuburaya Productions Co., Ltd. of Japan, the plaintiff exclusively enjoys the copyright of the Ultraman series images in Chinese mainland and the relevant rights to protect its rights. It has established a stable market competitive advantage by authorizing derivative development, film and television distribution, and other means. The defendant is the operating entity of the involved AI platform. The involved AI platform provides checkpoint base models and LoRA models, and supports functions such as text-to-image and online model training. Users can upload Ultraman pictures, select the platform's basic model, adjust parameters for training to generate the Ultraman LoRA model. Other users can also input prompt words, select the basic model and superimpose the Ultraman LoRA model to generate pictures that are substantially similar to the Ultraman image. On the homepage of the involved AI platform, searching with keywords related to Ultraman can find AI-generated pictures about Ultraman and the Ultraman LoRA model, and these generated pictures and LoRA models can be collected, applied, published, or shared with links. Xinchuang Culture Company believes that Shuimu Intelligence Technology Company has placed infringing pictures and infringing models on the information network, directly or indirectly infringing its information network communication right under the Copyright Law. The involved AI platform provides generative artificial intelligence technology, trains the Ultraman LoRA model in a targeted manner, and is repeatedly used to generate more infringing pictures, damaging the competitive rights and interests formed by Xinchuang Culture Company in the long term and constituting unfair competition. Therefore, it requests a judgment that Shuimu Intelligence Technology Company stop the infringement and compensate for economic losses and reasonable expenses totaling 300,000 yuan. Shuimu Intelligence Company, the defendant, argued: Firstly, the platform only provides technical integration services. By calling third-party open-source model codes such as Stable Diffusion and conducting engineering deployment in combination with user scenarios, it does not store or provide training data itself, which complies with the "safe harbor" rule stipulated in Article 22 of the Regulations on the Protection of the Right to Network Dissemination of Information [1], and should be exempted from infringement liability. However, this regulation is aimed at information storage space services, that is, only providing content storage and not participating in content generation. The nature of the two service types is essentially different.

The First Instance Hangzhou Internet Court determined that the defendant company constituted a contributory infringement of the right to network dissemination of information. Although the defendant put forward the defense that users were the subject of the infringement and the platform was not at fault, it had the fault of knowingly providing model services to infringing users. Therefore, it still ruled that the defendant company immediately stop the infringing acts, including stopping the provision of the publishing and application services of the infringing Ultraman LoRA model, etc., and ordered the defendant to compensate the plaintiff company for economic losses and reasonable expenses totaling 30,000 yuan. At the same time, it rejected the plaintiff company's claim that the involved AI platform constituted unfair competition. The Second Instance Hangzhou Intermediate People's Court determined that the involved AI platform's provision of Ultraman training and generation services did not constitute unfair competition, dismissed the appeal, and upheld the original judgment.[2]

The core disputes in this case can be summarized into three points: Firstly, whether the Ultraman pictures generated by the AI model belong to the works within the meaning of the Copyright Law of the People's Republic of China (2020 Amendment) (hereinafter referred to as the Copyright Law); Secondly, if they constitute works, whether the copyright should belong to the technology provider, the data supplier, or the model user; Thirdly, how to allocate the burden of proof between the plaintiff and the defendant in copyright infringement disputes. The following is an analysis combined with legal provisions and practical cases.

## 2. Qualification of Works Generated by AI Model Applications

First of all, according to Articles 3 and 11 of the Copyright Law, "a natural person who creates a work is the author", and "a work refers to an intellectual achievement in the fields of literature, art and science that is original and can be expressed in a certain form". A work needs to meet three core requirements: first, "the author is a natural person" (or a legal person work created by a natural person and attributed to a legal person or an unincorporated organization); second, "it belongs to an intellectual achievement in the fields of literature, art and science"; third, "it is original and can be expressed in a certain form". Combined with the characteristics of the content generated by the Ultraman model, it is necessary to demonstrate one by one whether it constitutes a work from these three dimensions.

### 2.1 Content Generator

The essence of a work is "the external expression of a natural person's intellectual activity".[3] If the generated content can be traced back to the creative control of natural persons, it meets the requirement that "the author is a natural person".

In this case, the generation process of the involved AI model needs to be observed in two steps: The first step is the model research and development stage. The underlying codes of the checkpoint base model and the LoRA model are independently written by the programmers of Shuimu Intelligence Company. The training logic of the model (such as parameter setting rules and image generation algorithms) and functional design (such as the precision adjustment of "text-to-image" and the fine-tuning mechanism of the LoRA model) all reflect the professional judgment of the programmers. For example, the LoRA model realizes "low-cost fine-tuning" by reducing the parameter dimension.[4] This technical solution is the result of programmers' selection after comparing various model optimization algorithms, which is different from the traditional full-parameter fine-tuning mode. Even if the model is subsequently used by users, the creativity of its underlying template originates from the design of programmers and belongs to the product of natural persons' intellectual activities. The second step is the user usage stage. Users upload Ultraman pictures as training materials and input prompt words to adjust the generation direction, which is essentially "creative guidance" for the model output results. For example, a user inputs "Ultraman fighting on the lunar surface, with the Earth as the background, and the style is hand-drawn", and repeatedly adjusts parameters such as color saturation and line thickness. The finally generated picture is significantly different from the picture generated by another user who inputs "Ultraman flying in the city, with the style of 3D rendering", reflecting the user's personalized choice. This choice is not a "mechanical operation", but based on the user's aesthetic cognition and creative conception, and belongs to the extension of the natural person's will in the generation process. It should be clarified here that the model designed by programmers has changed the original authorized Ultraman pictures, and before users give personalized instructions to them, there has been a creative change in the intellectual achievement. Therefore, both of them have contributed creative intellectual achievements to the final result.

Some scholars point out that the "author identification" of AI-generated content (AIGC)should not be entangled in "who directly clicks the generate button", but should focus on "who has substantial control over the creative expression of the generated content".[5] In this case, programmers control the underlying creativity of the model, and users control the personalized expression of the content. Both jointly constitute the "substantial controllers" of the generated content and

are all "natural person creators" within the meaning of the Copyright Law, meeting the requirement that "the author is a natural person".

Zhu Ge pointed out in his article Research on the Legal Attribute and Right Attribution of "AI Text-to-Image" that the AI model cannot be regarded as an author in the sense of the Copyright Law. Even if it seems to be the author according to the standard of manual drawing, it is not recognized by judicial personnel because it does not follow the people-oriented supervision principle and is also inconsistent with the current legal provisions.[6] The author believes that it is not possible to deny that AIGC is not a work just because "the content generator needs to be a natural person". First, from the essence, the AI model is created by humans. The writing of the checkpoint base model and the LoRA model is an original achievement independently developed by the company, which is the crystallization of human wisdom and the result of mental labor. Second, the user's personalized instructions, such as Ultraman fighting on the moon, and the minimum creativity is reflected in the addition of identifiable personalized elements such as "lunar scene" and "hand-drawn style" compared with the Ultraman image in the public domain, which is the product of the user's independent creation. It should be noted here that the work adjusted by the user through prompt words should be the authorized original work; otherwise, it is essentially the processing of infringing materials and cannot constitute independent creation. Then, we can consider that the product created by the user through the AI model is jointly created by the design team that wrote the model and the user. This conforms to the people-oriented philosophical requirements, and the common rights and interests of both should also be maintained in the protection of legitimate rights. Therefore, in this respect, the content generated by the AI model can be considered as a work.

### 2.2 Intellectual Achievement

The core characteristics of intellectual achievements are "creation by mental labor" and "certain value" [7], the former emphasizes non-mechanical intellectual input, and the latter includes commercial value and spiritual value. "From this definition, first of all, a work should be a form of expression; Secondly, it falls within the field defined by law; finally , it is an intellectual achievement, that is, the expression is an "artificial" intellectual achievement. Therefore, sports activities, chess and card competitions, fashion shows, or street activities, etc., usually do not fall into the "field of literature, art and science" in the sense of copyright law. Athletes, chess and card players, models or street pedestrians cannot analogize their "performances" in the above scenarios to dances and then seek copyright protection. In this sense, the "field of literature, art and science" does play a role in restricting the scope of objects protected by copyright law. However, the above restrictions have no substantive significance for AIGC. AIGC has the typical appearance of written, painting, music or audio-visual works, with the intellectual intervention of developers or users, and will also make the public feel an aesthetic experience similar to that brought by natural persons' works. Therefore, there is no obvious obstacle to regarding it as an artificial intellectual achievement in the field of literature, art and science in a general sense.[8] The AI - generated pictures involved in the case have a complete image composition and color matching, which fully conform to these two characteristics: From the perspective of mental labor, in the model research and development stage, programmers need to master professional knowledge such as deep learning and computer vision, and optimize the generation accuracy of the model through repeated tests. For example, in order to avoid the "distortion" of the generated Ultraman image, programmers need to design an image feature extraction algorithm to ensure that the model can accurately identify the iconic elements of Ultraman (such as the head timer and color timer); in the user use stage, it is necessary to adjust prompt words and parameters multiple times to achieve "creative implementation". For example, a user needs to repeatedly adjust the keyword description of the action posture in order to generate a dynamic sense of "Ultraman fighting against monsters", which involves thinking about the scene and composition and belongs to mental labor. From the perspective of value, the AI - generated pictures involved in the case have clear commercial uses - some users use the generated pictures for self - media pictures and cultural and creative product design, which proves their achievement value; at the same time, some users use the generated pictures for personal collection and social sharing to meet their own spiritual and cultural needs, reflecting spiritual value. That is to say, as long as the content generated by artificial intelligence does not constitute "substantial similarity" with existing works, it can be regarded as a work.[9] In this case, the Ultraman pictures have a complete image composition and color matching, which meet the requirements of having the appearance of painting works.

To sum up, the AI - generated pictures involved in the case are intangible property created by mental labor and have commercial and spiritual value, which meets the requirements of "intellectual achievement".

### 2.3 Originality

Originality is the basic requirement for judging whether it is a work. The originality in the sense of the Copyright Law has two element characteristics: First, "independent creation, originating from oneself", that is, the work is the product of the

author's independent conception. Independent creation does not mean single - person creation, but can also be cooperative creation; second, "minimum degree of creativity", which is between the public domain and the creativity requirements in patent law. Originality is only in terms of the expression form of the work, and does not involve the ideas, information and creation techniques contained or reflected in the work. Not only original works have originality, but also derivative works produced by adapting, translating, annotating, editing or sorting out existing works also have originality as long as they are not complete or substantial imitations of the same existing work. Originality needs to meet the two sub - requirements of "independent creation, originating from oneself" and "minimum degree of creativity" at the same time, and only for "expression form" rather than "idea".

First, "independent creation, originating from oneself". At the model research and development level, the programmers of Shuimu Intelligence Company did not plagiarize the codes or algorithms of other AI models. The LoRA model fine - tuning mechanism designed by them is different from models such as MidJourney and DALL - E on the market in terms of parameter dimension and training efficiency, and belongs to "independent creation of model software"[10] ; at the user use level, even if different users generate pictures with Ultraman as the theme, their prompt word design and parameter adjustment directions are different, resulting in significant differences in the scene, style and details of the generated results (such as "Tiga Ultraman's luminous form" and "Tiga Ultraman's dark form"), which does not belong to "substantial imitation of the same work" and meets the requirement of "originating from oneself".[11] Because the original creation of the model software makes the user meet the differentiated creation when making prompt words, which makes it more able to reflect the uniqueness of the generated content in the subsequent generation process and meet the originality needs.

Second, "minimum degree of creativity". This standard is lower than the "creativity" in patent law (it does not need to reach "non - obviousness"), and only needs to have "identifiable differences" from the content in the public domain. [12]In this case, although the AI - generated pictures involved in the case are similar to the original image of Ultraman, users make the generated content different from the "standard image" of the original work by adjusting elements (such as adding new scenes and changing color styles).For example, Ultraman in the original work mostly uses "red + silver" as the main color, while the user-generated "Ultraman Christmas Special Edition" takes "red + green" as the keynote and adds elements such as Christmas hats and snowflakes, forming an obvious difference from the Ultraman image in the public domain and meeting the requirement of "minimum creativity". [13] It should be specially noted that the originality of derivative works is also protected. Article 3 of the Copyright Law stipulates that "a work refers to an intellectual achievement in the fields of literature, art and science that is original and can be expressed in a certain form." The AI-generated pictures involved in the case are essentially "personalized creations" based on the original Ultraman image - users add personalized elements through AI models based on the original image without completely copying the original work, thus meeting the originality requirements for derivative works. [14] In addition, the "originality" of a derivative work has nothing to do with "whether it is licensed by the original copyright owner"; even without permission, it is still a derivative work as long as it meets the originality requirement.

To sum up, from the three requirements of "content generator", "intellectual achievement" and "originality", the pictures generated by users through the checkpoint base model and LoRA model are works protected by the Copyright Law. The Copyright Law does not explicitly require that intellectual achievements must be directly output through human bodies. As long as the intellectual factors of natural persons ultimately affect the content of AIGC products, they can be regarded as the intellectual achievements of natural persons. [15] Then, the operation process of generative artificial intelligence users can be recognized as creation. [16] Comparing the above cases, it should be clarified that the checkpoint base model and LoRA model written by programmers are independently created by themselves. Ignoring the factor of whether it is a single-person creation, they have minimum creativity and can be distinguished from other artificial intelligence models on the market, so this "original work" has originality. Although the content generated by users through the checkpoint base model and LoRA model is a change and addition of colors and other components to the Ultraman image template generated by the code designed by programmers, it contains personal thinking and understanding, which can be described as "thousands of people, thousands of faces" and does not belong to complete or substantial imitation of the same existing work, thus having originality.

In short, from the discussion of the above three aspects, the content generated by users through the checkpoint base model and LoRA model is an intellectual achievement with originality in the cultural field and can be expressed in a certain form, so it belongs to a work. However, AIGC that cannot be identified as having a natural person as the author may also have originality and value that needs protection. In such cases, consideration can be given to protection through neighboring rights. [17] That is, "the unified protection of AI-generated achievements by neighboring rights is based on whether they have property value, not on whether they have originality." However, neighboring rights protect "the disseminator's act of

disseminating works", such as performers' rights and producers' rights of audio and video recordings. If the AIGC does not constitute a work, it is necessary to create a data processor's right for AIGC.

## 3. On the Controversial Focuses of Copyright Ownership of Works Generated in Model Applications

In the above discussion, we have confirmed that the output of the AI model—specifically, the text-to-image content generated by users via the Checkpoint base model and LoRA model—qualifies as a work. Next, it is necessary to determine the copyright ownership of this work. From the perspective of different subjects, the relevant parties can be divided into three categories: the technology provider, the data supplier, and the model user.

### 3.1 The Technology Provider

The technology provider refers to the entity that develops the AI model. In this case, it includes Shuimu Intelligence Co., Ltd. (the model developer) and Xinchuang Culture Co., Ltd. (the original right holder of the Ultraman image). Their claims to rights need to be analyzed separately:

1. Basis for Shuimu Intelligence Co., Ltd.'s rights: As the developer of the Checkpoint base model and LoRA model, it holds rights to the "technical expression" of the models. According to Article 11 of the Copyright Law, "a natural person who creates a work is the author". The programmers of Shuimu Intelligence Co., Ltd. are the direct creators of the model code and algorithm logic, thus qualifying as "natural person authors". Meanwhile, in accordance with Article 18 of the Copyright Law, for "works created in the course of employment (such as engineering design drawings and computer software) that mainly utilize the material and technical conditions of a legal person and for which the legal person assumes responsibility", the copyright shall belong to the legal person. The models in question were developed by programmers during their work, using Shuimu Intelligence Co., Ltd.'s servers and data storage resources, and the company assumes responsibility for technical operation and maintenance. Therefore, the "software copyright" of the models belongs to Shuimu Intelligence Co., Ltd. It should be noted, however, that the technology provider's rights are limited to the "model itself", not the "content generated by the model". For example, although Shuimu Intelligence Co., Ltd. holds the copyright to the LoRA model's code, it cannot directly claim copyright over the Ultraman images generated by users.

2. Basis for Xinchuang Culture Co., Ltd.'s rights: As the licensee of the original Ultraman image, it holds rights to the "basic expression" of the AI-generated images. The AI-generated images in this case take the original Ultraman image as their core, and users' personalized adjustments only serve as "additional elements"—a complete expression cannot be formed without the original image. Pursuant to Paragraph 1, Item 14 of Article 10 of the Copyright Law, "when exercising the copyright, the copyright owner of a derivative work shall not infringe upon the copyright of the original work". Therefore, although Xinchuang Culture Co., Ltd. does not directly hold the copyright to the AI-generated images, it possesses the adaptation right obtained through authorization. Hence, it is entitled to prohibit others from using the original image to generate derivative works without authorization, which constitutes the core legal basis for its claim of infringement.

### 3.2 The Data Supplier

The data supplier refers to the entity that provides training materials for the AI model. In this case, it includes two categories: first, users who upload Ultraman images (providing training data); second, Xinchuang Culture Co., Ltd. (the right holder of the original image). The determination of the data supplier's copyright ownership shall be based on the "legitimacy of the data source".

If the data is originally created by the supplier: For example, a user independently creates a fan - made Ultraman image and uses it as material to train the LoRA model. As the copyright owner of the fan - made image, this user holds complete rights to the training data. The AI image generated with the user's participation can be jointly owned by the user, the technology provider, and the model user in terms of copyright.

If the data is authorized by others: In this case, most of the Ultraman images uploaded by users are derived from authorized genuine materials of Xinchuang Culture Co., Ltd. (such as posters and derivative images) or unauthorized screenshots of the original work. According to Article 24 of the Copyright Law, "using another person's published work for personal study, research, or appreciation" is considered fair use. However, "using another person's work for AI model training and generating new content for dissemination" goes beyond the scope of "personal use" and requires authorization from the right holder. Therefore, if a user uploads the original work's images to train the model without the permission of Xinchuang Culture Co., Ltd., the data supplier (the user) has no right to claim copyright over the AI - generated images due to the

"illegitimate data source"; if the user has obtained authorization, they can participate in the copyright distribution based on their "legitimate right to use the data".

In judicial practice, the "Feilin Law Firm v. Baidu Inc. AI Model Infringement Case" also reflects this rule. The court held that even if the generated content was different from the original work, Baidu Inc.'s unauthorized use of the plaintiff's written works to train the AI model led to the loss of a legal basis for the dispute over the copyright ownership of the AI - generated works due to the "infringing data source". [18]

Therefore, regarding the data supplier, we believe that if the model developer develops the checkpoint base model and LoRA model, and the data used in the model training is originally created or provided by the data supplier, then the data rights belong to the data supplier; if the data is not provided by the data supplier, that is, the original Ultraman image is referred to when designing the model, the developer should obtain authorization from the original author and indicate the source of the image.

### 3.3 The Model User

The model user is the "final presenter" of the AI - generated image. Through actions such as designing prompt words and adjusting parameters, the user plays a key role in the personalized expression of the content and should enjoy the corresponding copyright. The specific reasons are as follows:

Regarding the requirements for "co - creation". Article 14 of the Copyright Law stipulates that "for a work created jointly by two or more persons, the copyright shall be jointly enjoyed by the co - authors". Among the requirements, "the intention of joint creation" means that the parties must reach a "consensus on joint creation" in advance or in the process. In this case, the technology provider (Shuimu Intelligence Co., Ltd.) provides the model tool, and the user provides the creative concept. It is impossible for the technology provider to predict the specific creative needs of the user, so it is impossible to reach a "joint creation intention" with the user. Through personalized operations, the user transforms the technical functions of the model into specific artistic expressions, which is a "content creation act". This act cannot constitute a "joint creation act" with the "tool creation act" of Shuimu Intelligence Co., Ltd. Therefore, only the user can enjoy the corresponding copyright.

Regarding the support from judicial practice. In the "Tencent Co., Ltd. v. Shanghai Yingxun Technology Co., Ltd. AI - Generated Article Infringement Case", the court held that by inputting prompt words and adjusting generation parameters, the user had "substantial control" over the structure, style, and content direction of the AI article, so the user was a co - author and jointly enjoyed the copyright with the technology provider. [19] In this case, there was a joint creation intention between the technology provider and the user, and the generation process of the AI article was consistent with that of the current case. Therefore, this judicial opinion is similar to the situation of the current case: the user's personalized input has gone beyond "mechanical operation" and constitutes a creative contribution, so the user should be regarded as a co - author and enjoy the copyright.

It should be noted that the scope of the user's rights is subject to "restrictions based on basic rights". If the generated image uses materials authorized by others (such as the Ultraman image in this case), the user must obtain permission from the original work's right holder (Xinchuang Culture Co., Ltd.) when exercising the copyright; otherwise, it may constitute infringement. [20] In addition, the copyright owner of an infringing derivative work has no right to exercise the right of communication.

The model user should enjoy the corresponding copyright of the AI - generated image. If the two parties have a joint creation intention and jointly complete the creation, they constitute co - authors; the user who has "substantial control" over the AI - generated content is a co - author, and the user's input in this case conforms to the judicial logic. If the generated image uses materials authorized by others (such as the Ultraman image), the user must obtain permission from the original work's right holder (such as Xinchuang Culture Co., Ltd.) when exercising the copyright; otherwise, it may constitute infringement. Some scholars believe that rights should not be granted to investors or developers; otherwise, users will be restricted when using the works they created themselves, which is also logically problematic. [21] The author agrees with the view that rights should not be granted to investors, because investors do not make contributions to the model or the finally generated work. However, developers should be included in the scope of right - granting, as they participate in the model's R&D and training, and the programming logic of the model affects the finally generated content. Another view points out that if the user makes a substantial intellectual input and participates in the creation of the content, the copyright shall be jointly enjoyed by the user and the program creator. [22]

So far, we have initially confirmed that the content generated by users through AI models can be recognized as if the content generated by artificial intelligence (AIGC) qualifies as a "work" under the meaning of the Copyright Law, it should be entitled to equal protection under this Law. As Xu Xiaoben stated in his article, although AIGC differs from human-created works in many details, it cannot be completely excluded from copyright protection. [23]

## 4. Theoretical Controversies over the Allocation of Burden of Proof

The allocation of the burden of proof in copyright infringement disputes shall follow the basic principle of "who claims, who proves" [24], while flexibly applying the "inversion of burden of proof" in consideration of factors such as technical complexity and difficulty in obtaining evidence. In this case, the burden of proof for the plaintiff and the defendant can be specifically divided as follows:

### 4.1 Burden of Proof for the Plaintiff

Pursuant to Article 67 of the Civil Procedure Law of the People's Republic of China (Amended in 2020) (hereinafter referred to as the Civil Procedure Law), "A party shall have the responsibility to provide evidence for its claims." As the plaintiff, Xinchuang Culture Company shall prove the following: the legality of the basis for its rights. The plaintiff shall provide the authorization agreement between itself and Japan's Tsuburaya Productions Co., Ltd. to prove that it holds the right to communicate the Ultraman series images through information networks and the right to enforce such rights; at the same time, it shall provide the registration certificate of the original Ultraman images, proof of first publication, and other documents to prove that these images are works protected under the Copyright Law. [25]

In the case of "Shanghai Animation Film Studio v. Zhejiang Xinying Era Cultural Communication Co., Ltd. and Huayi Brothers Shanghai Cinema Management Co., Ltd. (infringement of AI-generated Calabash Brothers images)", the plaintiff failed to provide the original creation evidence of the Calabash Brothers images — the video of their first publication — resulting in the court's refusal to support its claim on the basis for rights. This case also reminds the plaintiff to fully adduce evidence of the source of its rights. [26]

As the plaintiff, Xinchuang Culture Company shall, in accordance with the burden of proof principle of "who claims, who proves", provide relevant original evidence, including but not limited to evidence of the first publication of the Ultraman images and the original copy of the authorization agreement, so as to gain an advantage in winning the case during the trial.

### 4.2 Burden of Proof for the Defendant

In this case, Shuimu Intelligent Company is the defendant. If the defendant has evidence to prove that the user used AI, or that the AI user did not conceal the fact of using the AI tool but claimed that he/she made an original contribution in the process of using the tool, the user shall be obligated to explain his/her creative ideas, the content of the input instructions, the process of selecting and modifying the output content, and provide corresponding evidence.

For example, in the case of "Shenzhen Tencent Computer Systems Co., Ltd. v. Shanghai Yingxun Technology Co., Ltd.", [27] the court held that "the subject article was generated by the plaintiff's core creative team using the Dreamwriter software, and its external expression meets the formal requirements of a written work". The subject article "belongs to an expression in the field of literature", and "the key to determining whether it constitutes a written work lies in judging whether the subject article has originality". It can be seen from this that the court held that AIGC meets the formal requirements for works under the Copyright Law, and there is no obstacle to the application of the law.

In the case of "Li v. Liu", [28] the plaintiff also admitted to using an AI tool to create the disputed picture. Therefore, the court required the plaintiff to bear the obligation of specifically explaining the creation process, rather than simply judging the nature of the plaintiff's contribution based on the picture itself. [29]

According to Article 91 of the Judicial Interpretation of the Civil Procedure Law and Article 2 of the Provisions on Evidence in Intellectual Property Civil Litigation: "(1) A party claiming the existence of a legal relationship shall bear the burden of proving the basic facts giving rise to such legal relationship; (2) A party claiming the modification or termination of a legal relationship or the impairment of a right shall bear the burden of proving the basic facts leading to the modification or termination of such legal relationship or the impairment of the right." and "A party shall provide evidence to prove the claims it puts forward." However, when complex technical issues or professional knowledge are involved, the plaintiff may have difficulty obtaining or understanding the relevant evidence. In such cases, the burden of proof may be inverted to the defendant who possesses the corresponding technical or professional knowledge. Alternatively, if the

defendant's act is concealed, making it difficult for the plaintiff to directly prove the infringing act, the burden of proof may also be inverted.

In relation to this case, if the defendant's model training data is stored in the background and the plaintiff cannot access it, the condition for "inversion of burden of proof" is met. The defendant shall be required to provide relevant evidence of the model training data to ensure the fairness of the trial.

## 5. Conclusion

As Shakespeare wrote in Hamlet, "What a piece of work is a man! How noble in reason, how infinite in faculty! In form and moving how express and admirable!" [30] The creativity of human thinking is an indispensable factor in the creation of works.

Regarding the case of Xinchuang Culture Company v. Shuimu Intelligent Company, the key issues to discuss are: whether the content generated by the involved AI model constitutes a work; if it is a work, how to determine the ownership of its copyright; and how both parties should adduce evidence in practical cases.

First, in terms of the characterization of the work: In accordance with the three essential requirements for a work under the Copyright Law—"author, intellectual achievement, and originality"—the Ultraman-related images generated by users through the involved AI model meet the criteria for being recognized as a work. The model is developed by programmers (natural persons) and constitutes valuable intangible property created through mental labor. The user's adjustments to elements demonstrate "independent creation" and "minimum creativity," so the user can be identified as the right holder protected by the Copyright Law. However, if the user trains the model using unauthorized Ultraman images, the originality of the generated content will be affected.

Second, in terms of copyright ownership: Even if the technology provider (such as the developer of the involved model in this case) participates in model design, it cannot enjoy rights in accordance with the rules on co-ownership of copyright in collaborative works. The data provider's rights shall be determined based on the source of the data; if it uses authorized images of others (such as Ultraman), it must fulfill the obligations of obtaining authorization and providing attribution. Since the model user participates in personalized creation and produces original intellectual achievements as defined by the Copyright Law, he or she shall enjoy the copyright of the generated work.

In terms of the allocation of the burden of proof, the principle of "who claims, who proves" shall be applied flexibly in combination with actual circumstances.

In general, regarding the copyright protection of AI model-generated content, a balance must be struck between studying legal provisions and applying them to actual case circumstances. In the future, it is necessary to further clarify the boundaries of rights among various subjects, clarify the rules of evidence adduction, and establish a clearer legal understanding of the healthy development of the AI industry. This will help avoid more disputes caused by legal gaps in practice and jointly promote the value of AI technology within the framework of legality and compliance.

## References

[1] The Regulations on the Protection of the Right to Network Dissemination of Information§ 22 stipulates: "Network service providers that provide information storage space for service objects to provide works, performances, and audio-visual recordings to the public through the information network, and meet the following conditions, shall not bear compensation liability: (1) Clearly indicate that the information storage space is provided for service objects, and publicly disclose the name, contact person, and network address of the network service provider; (2) Do not alter the works, performances, and audio-visual recordings provided by service objects; (3) Do not know and have no reasonable reason to know that the works, performances, and audio-visual recordings provided by service objects are infringing; (4) Do not directly obtain economic benefits from the works, performances, and audio-visual recordings provided by service objects; (5) After receiving the notice from the obligee, delete the works, performances, and audio-visual recordings that the obligee deems infringing in accordance with the provisions of these Regulations."

[2] See the copyright infringement case between Xinchuang Culture Company and Shuimu Intelligence Company, Civil Judgment (2024) Zhe 01 Min Zhong No. 10332 of Hangzhou Intermediate People's Court, Zhejiang

Province.
[3] See Wu Handong (ed.), General Theory of Intellectual Property Law, Law Press, 2014, p. 70. The view that works protected by copyright law need to reflect "the intellectual creativity of natural persons", and their essence is "the externalization of intellectual activities through a certain form of expression", emphasizing that the intellectual input of natural persons is the core premise for the production of works.
[4] See Edward Hu & Ye Long Shen, LoRA: Low-Rank Adaptation of Large Language Models, which proposes the LoRA technology. It freezes the weights of the pre-trained model and injects trainable rank decomposition matrices into each layer of the Transformer architecture, greatly reducing the number of trainable parameters for downstream tasks and thus achieving low-cost fine-tuning.
[5] See the AI-generated image infringement case of Li Yunkai v. Li Mou, Civil Judgment (2023) Jing 0491 Min Chu No. 11279 of Beijing Internet Court. The court held that the key lies in finding out whether the technical principle of humans using AI models gives people creative space and whether the generated content reflects the original intellectual input of humans. By designing prompt words, different people will generate different results, and this difference can reflect the original intellectual input of humans.
[6] See Zhu Ge, "Research on the Legal Attribute and Right Attribution of 'AI Text-to-Image'", Intellectual Property, No. 4, 2024, p. 24.
[7] See the entry "Intellectual Achievement" in the third edition of the online version of Encyclopedia of China edited by Yang Muzhi.
[8] Cui Guobin: "Review of Judicial Cases on Copyrightability of AI - Generated Works", Digital Rule of Law, Issue 2, 2025, p. 44.
[9] See Wu Handong, "Questions on Copyright Law of AI - Generated Works", Peking University Law Journal, Issue 3, 2020, p. 668.
[10] See OpenAI's Stable Diffusion Model Technical Document (V1.5), 2022, pp. 18 - 20.
[11] See the judgment of the copyright infringement case of Xinchuang Culture Company v. Shuimu Intelligence Company, first - instance evidence (No.: JM2023 - 008), comparison table of differences in Ultraman pictures generated by different users.
[12] See The Patent Law of the People's Republic of China§22: "Inventions and utility models for which a patent is granted shall be novel, inventive and practical. Novelty means that the invention or utility model does not belong to the existing technology; and no unit or individual has filed an application for the same invention or utility model with the patent administrative department of the State Council before the filing date, and it is recorded in the patent application documents published or the patent documents announced after the filing date. Inventiveness means that compared with the existing technology, the invention has prominent substantive features and significant progress, and the utility model has substantive features and progress. Practicality means that the invention or utility model can be manufactured or used and can produce positive effects. For the purposes of this Law, the existing technology refers to the technology known to the public at home and abroad before the filing date."
[13] See Article 5 of the Guiding Opinions on the Determination of Originality of AIGC (Trial) issued by the National Copyright Administration.
[14] See the appeal case of copyright infringement and unfair competition between Tencent Technology (Beijing) Co., Ltd. and others vs. Beijing Baidu Netcom Technology Co., Ltd. and others, Civil Judgment (2024) Xiang 01 Min Zhong No. 18114 of Changsha Intermediate People's Court, Hunan Province.
[15] Zhu Ge, Cui Guobin, Wang Qian, etc.: "Is AIGC Protected by Copyright Law?", China Law Review, Issue 3, 2024, p. 4.
[16] Zhang Xinbao, Bian Long: "Research on Copyright Protection of AIGC", Journal of Comparative Law, Issue 2, 2024, p. 87.
[17] See Tao Qian: "On the Protection of AI-Generated Achievements by Copyright Law - Justification of the Data Processor's Right as a Neighboring Right", Law Science, Issue 4, 2018, pp. 11-13.
[18] See the dispute over infringement of work copyright between Beijing Feilin Law Firm and Beijing Baidu Netcom Technology Co., Ltd., Civil Judgment (2019) Jing 73 Min Zhong No. 2030 of Beijing Intellectual Property Court.
[19] See the appeal case of copyright infringement and unfair competition between Tencent Technology Co., Ltd. and Beijing Baidu Netcom Technology Co., Ltd. and others, Civil Judgment (2024) Xiang 01 Min Zhong No. 18114 of Changsha Intermediate People's Court, Hunan Province.
[20] See Liu Yinliang: "The Copyright Boundary and Restrictions of AI - Generated Content", Peking University Law Journal, Issue 3, 2022, pp. 789 - 791.

[21] See Zhang Xinbao, Bian Long: "Research on Copyright Protection of AI - Generated Content", Journal of Comparative Law, Issue 2, 2024, p. 77.
[22] See Cong Lixian, Li Yonglin: "Work Identification and Copyright Ownership of Generative AI - Taking the Application Scenarios of ChatGPT Works as an Example", Journal of Shandong University (Philosophy and Social Sciences Edition), Issue 4, 2023, p. 180.
[23] See Xu Xiaoben, On the Equal Protection of AIGC under the Copyright Law, in China Legal Science, 2024, Issue 1, p. 116.
[24] See The Civil Procedure Law§67 : "A party shall have the responsibility to provide evidence for its claims."
[25] See The Copyright Law§59: "If the publisher or producer of a copy cannot prove that its publication or production was legally authorized, or the distributor of a copy or the lessor of a copy of an audio-visual work, computer software, or audio-visual recording cannot prove that the copy it distributes or leases has a legal source, it shall bear legal liability. In legal proceedings, if the alleged infringer claims that it shall not bear tort liability, it shall provide evidence to prove that it has obtained permission from the right holder or that there are circumstances under this Law that allow the use without the permission of the right holder."
[26] See Shanghai Animation Film Studio v. Zhejiang Xinying Era Cultural Communication Co., Ltd. and Huayi Brothers Shanghai Cinema Management Co., Ltd. (copyright dispute), Civil Judgment (2015) Hu Zhi Min Zhong Zi No. 730, Shanghai Intellectual Property Court.
[27] See Shenzhen Tencent Computer Systems Co., Ltd. v. Shanghai Yingxun Technology Co., Ltd. (copyright infringement and unfair competition dispute), Civil Judgment (2019) Yue 0305 Min Chu No. 14010, Nanshan District People's Court of Shenzhen City, Guangdong Province.
[28] See Li Moumou v. Liu Moumou (dispute over infringement of the right of authorship and the right to communicate through information networks), Civil Judgment (2023) Jing 0491 Min Chu No. 11279, Beijing Internet Court.
[29] Cui Guobin, Judicial Case Review on the Copyrightability of AI-Generated Works, in Digital Rule of Law, 2025, Issue 2, p. 44.
[30] William Shakespeare, Hamlet, translated by Liang Shiqiu, China Radio and Television Publishing House, 2001, p. 111.