

Algorithmic Creativity and Copyright: Can AI Be the Author of a Work?

Creatividad algorítmica y derechos de autor: ¿puede la IA ser autora de una obra?

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Abstract

The development of artificial intelligence systems capable of generating texts, images, music, code, and other formally original creations has reopened the debate on the classical foundations of copyright law. This article examines whether an artificial intelligence system can be considered the author of a work and what the legal, ethical, and philosophical implications are of either accepting or rejecting that possibility. To this end, it analyses the concept of algorithmic creativity, the traditional notion of authorship based on human intervention, and the main criteria used by copyright law to recognize the originality of a work. It also explores the problems raised by AI-generated works in relation to ownership, liability, moral and economic rights, and the protection of the interests of programmers, users, companies, and autonomous systems. This article further argues that, in view of the development of increasingly complex and autonomous machines, it is necessary to recognize that such systems are creating creative works that may be as original as, or even more original than, human works. This calls for a shift in perspective leading to legislative reform capable of recognizing the “co-creation” of works through human-machine interaction, both in law and in society.

Keywords: Copyright; Artificial Authorship; Robot Rights; Creative Machines.

Resumen

El desarrollo de sistemas de inteligencia artificial capaces de generar textos, imágenes, música, código y otras creaciones formalmente originales ha reabierto el debate sobre los fundamentos clásicos de la legislación en materia de derechos de autor. Este artículo examina si un sistema de inteligencia artificial puede considerarse autor de una obra y cuáles son las implicaciones jurídicas, éticas y filosóficas de aceptar o rechazar esa posibilidad. Para ello, analiza el concepto de creatividad algorítmica, la noción tradicional de autoría basada en la intervención humana y los principales criterios utilizados por la ley de derechos de autor para reconocer la originalidad de una obra. También explora los problemas que plantean las obras generadas por IA en relación con la propiedad, la responsabilidad, los derechos morales y económicos, y la protección de los intereses de los programadores, los usuarios, las empresas y los sistemas autónomos. Este artículo sostiene además que, en vista del desarrollo de máquinas cada vez más complejas y autónomas, es necesario reconocer que dichos sistemas están creando obras creativas que pueden ser tan originales como, o incluso más originales que, las obras humanas. Esto exige un cambio de perspectiva que conduzca a una reforma legislativa capaz de reconocer la «co-creación» de obras a través de la interacción entre humanos y máquinas, tanto en el ámbito jurídico como en la sociedad.

Palabras Clave: Derechos de Autor; Autoría Artificial; Derechos de los Robots; Máquinas Creativas.

Introduction: Creativity and Artificial Agency: Conditions of Possibility and Theoretical Limits

The emergence of artificial intelligence (AI) has prompted new questions regarding the very conception of the human. One of the most developed lines of inquiry today is the comparison between the capabilities of machines and those of human beings. Accordingly, a range of scholars have asked whether machines perform human cognitive actions, whether they possess the capacity to think, whether they are autonomous, or whether they are conscious (Ruiz Osuna, 2025a). Within these approaches, different positions can be identified that either affirm or deny the emulation of these human faculties by machines. Nevertheless, regardless of how these questions are answered, the very foundations upon which they are posed remain embedded in the continuity of the humanist paradigm.

Classical humanist anthropology is grounded in an anthropocentric outlook that conceives the human being as the measure of all things, granting it a hierarchically superior position in relation to nature and other entities (Chavarría Alfaro, 2015; Ferrando, 2019). This perspective defines the individual as a rational and autonomous subject, endowed with an immutable nature or essence that delineates humanity and qualitatively distinguishes it from animals and machines (Fukuyama, 2002, cited in Diéguez, 2017; Velázquez, 2009). This humanist conception is structured upon categorical dualisms (mind/body, subject/object, culture/nature), in which the mental dimension enjoys a privileged ontological status to the detriment of bodily materiality (Braidotti, 2013; Ranisch & Sorgner, 2014).

In this sense, the very framing of questions about whether machines possess autonomy, thought, or consciousness remains embedded within a humanist paradigm that assumes these traits to be intrinsic to the human condition. Consequently, such humanist premises are often adopted uncritically. This gives rise to a fundamental question: Is the human being, in fact, truly autonomous, conscious, and rational?

A substantial strand of contemporary philosophy—drawing on thinkers such as Nietzsche, Marx, Freud, Foucault, Deleuze, Derrida, Vattimo, Agamben, Esposito, Lazzarato, Butler, and Preciado, among others—has called into question the validity of these assumptions. If it is not possible to assert with certainty the primacy of autonomy, consciousness, and rationality within the human sphere, why should such attributes be demanded of the machine, when our own possession of these capacities remains uncertain?

The problematization of artificial intelligence thus operates, in a specular manner, as an interrogation of the very definitions of the human. Inquiry into the machine inevitably leads to a question mark over our own condition (Ruiz Osuna, 2025b).

Creativity has historically functioned as the last refuge of this humanist exceptionalism, operating as an ontological boundary against the mechanical under the premise that machines lack the subjectivity and values required to generate genuinely new ideas (Boden, 2004). Within the framework of traditional humanist thought, creativity was conceived as a faculty exclusive to humans, enabling the emergence of the radically new from an inscrutable subjective interiority (Boden, 2004; 2011).

This conception, however, is now being strained by the rise of algorithmic systems capable of performing creative tasks with an effectiveness that challenges our most deeply rooted categories of consciousness and identity, suggesting that even creative capacity might be automated and thereby jeopardizing the “last bastion” of human relevance (Miah, 2014). As Diéguez (2017) warns, the advent of superintelligent machines compels us to question whether these faculties are exclusive to biology or whether we are witnessing the obsolescence of classical humanism and its anthropocentric worldview.

To address human creativity, it is imperative to strip it of its romantic and mystical overtones (Boden, 2004). Psychology and neuroscience have already begun to secularize this concept, understanding it as a modelable cognitive phenomenon and, therefore, not exclusive to the organic substrate (Boden, 2004; Chavarría Alfaro, 2015). Within the cognitive and psychological sciences there is no single accepted definition of creativity. Instead, there is a general umbrella of conceptualizations surrounding creativity, cognition, and intelligence. Broadly, creativity refers to ways of thinking and problem-solving that expand beyond a strict set of formal rules to result in a novel and useful outcome (Boden, 2004; Guilford, 1950; 1959; Runco & Chand, 1995). Put another way, creativity entails originality with purpose (Hennessey & Amabile, 1988; Runco, 2004). Practically, it can be considered the ability to produce new, high-quality ideas or products (Simonton, 1999) through the combination or recombination of knowledge, information, or mental representations (Dartnall, 2002). Creativity typically requires cognitive flexibility to switch attention between different elements of a situation, to reappraise situations, to try new strategies that attempt new outcomes, thinking through many paths to generate multiple unique solutions to a problem (i.e., divergent thinking; Guilford, 1950; 1959).

Creativity is associated with several other cognitive processes, further complicating conceptualizations of creativity and reactions to creative works. Creativity has been considered the pinnacle of intelligence (Boden, 2004), but also a form of intelligence alongside analytic (i.e., solving physics problems) and practical (i.e., solving real world problems in the real world) intelligence in Sternberg's triarchic theory (Sternberg, 1985; 1986). Combinations of intelligence and creativity have been termed wisdom (Sternberg, 2001), a meaning-laden concept. Creativity is also associated with insight (Feldman, 1988; Weisberg, 2018) and genius (Simonton, 1999). Genius, like creativity, can be defined in many ways, but when applied to individuals, refers to an innate talent, ability, or disposition that extends beyond normative or average performance in a specific domain. It can also be used to refer to individuals with extraordinary intellect or creativity, and can be used to signify renown or broad impact (Simonton, 1999). Genius signifies uniqueness, social impact, and intellectual quality (Cassandro & Simonton, 2003), and so we think of creative geniuses as people who create unique, novel products that profoundly challenge or change the way we think, react, or act. In sum, creativity is a cognitive process comprised of other cognitive processes that results in a useful, original product that is associated with intelligence, wisdom, insight, and genius.

Early attempts to understand creativity considered that creative people might be innately different from non-creative people, based on possible individual differences in unconscious processing (Kris, 1952; Smith & Blankenship, 1989), although empirical support for this is limited. More recently, neuroscientists have observed individual differences in functional connectivity between brain networks that predict increased creativity (Beaty et al., 2018) and personality psychologists have documented personality correlates of creativity (Xu, 2025). There is support for the idea that creativity arises from cognitive processes accessible to all people such as noticing problems, recognizing that objects can be something other than what they are typically considered, and engaging in directed recall that connects past experiences and specific constraints, thus suggesting that creativity is not an innate, individual, human-only process. Cognitive and educational scientists have demonstrated that differences in creativity are tied to environmental exposure, motivation and persistence, expertise, and domain-specific skills (Amabile, 2001; Karwowski, 2014; Snow, 1986). This means that creativity can be learned or enhanced to some degree (Nickerson, 1999); creativity is not merely an innate capacity experienced only by certain unique people.

In this sense, human creativity must be reconsidered as a form of "curation" over a preexisting cultural background (Boden, 2011), a process that Fernández (2022) describes as a hybrid construction that dissolves the boundaries between the human and the technical. We do not create *ex nihilo*; rather, we

operate within ecologies of meaning in which technology has always functioned as a constitutive prosthesis of human imagination, blurring the boundary between the natural and the artificial (Fernández, 2022; Haraway, 1995).

This demystification of human creativity finds a revealing theological parallel in the biblical distinction between *creatio ex nihilo* and *creatio ex aliquo* (Ruiz Osuna & Carbajal, 2025). If, as established in Genesis, even the human being—this privileged creature endowed with divine breath—was formed *ex aliquo*, from the dust of the already created earth (Genesis 2:7), the claim of a human creativity operating *ex nihilo* becomes not only an epistemological illusion but also an ontological hubris. Divine creation of the cosmos, understood as creation from absolute nothingness, establishes the very conditions of possibility for all subsequent acts of creation; by contrast, both human formation and human creativity necessarily operate within a horizon of preexisting materiality and meaning (Carbajal, 2025).

This limitation, far from diminishing human creative capacity, reveals its true nature: a process of transforming and reconfiguring what is given, analogous to the image of the potter (*yatzar*) used in Genesis to describe the divine formation of the human being (Guardini, 2013). If God himself, in creating the human, proceeded *ex aliquo*—taking earthly matter and organizing it into a form that transcended its components—then human creativity, which operates through curation, follows the same logic. Within this framework, AI does not constitute a threat to human creativity but rather its logical extension: another mode of organizing the preexisting (algorithms, data, patterns) that replicates the fundamental structure of all *creatio ex aliquo* (Carbajal, 2025).

In 1968, Roland Barthes issued a verdict destined to reshape contemporary literary theory: the author is dead. This declaration, far from a merely provocative gesture, articulated a radical critique of the hermeneutic paradigm that had governed literary studies since Sainte-Beuve, according to which the meaning of a work was to be sought in the biography of its creator. As Zapata (2011) has shown, Barthes's pronouncement consummated a long genealogy of objections to the Romantic myth of the writer—a genealogy already inaugurated by Mallarmé, Valéry, and Proust, each of whom, in his own way, had denounced the impertinence of resorting to authorial intention to fix the value and signification of a literary work. What Barthes accomplished, therefore, was not an inaugural rupture but the most radical formulation of a tendency long sedimented within aesthetic modernity.

The Barthesian operation possesses, however, a philosophical dimension that exceeds the disciplinary confines of literary criticism. In affirming, as Zapata (2011) recalls, that writing is the destruction of every voice and of every origin, Barthes proclaimed the emancipation of an anonymous and democratic language, redeemed from the authority of the "Author-God." This critique inscribes itself within the broader horizon of French anti-humanism—that of Foucault, Deleuze, and Derrida—which contested the very notion of a sovereign, autonomous subject who would be the proprietor of meaning. The idea of a creator-self, responsible for the work and entitled to exercise unimpeachable authority over it, was thereby exposed as an ideologically and historically determined construction rather than an ontological given. For an entire generation of theorists, as Zapata (2011) reminds us, authorial sovereignty was no more than a stumbling block in the history of thought, a metaphysical residue that criticism had to overcome.

The full reach of this critical operation became manifest one year later, in Foucault's (1969) celebrated essay *What Is an Author?* What Foucault proposes is not, properly speaking, a resurrection of the author but a transmutation of the author into a hermeneutic category. The author, the French philosopher argues, does not arise spontaneously from the attribution of a discourse to an individual; rather, the author is the result of a complex operation through which a certain "being of reason" is

constructed and given that name (Zapata, 2011). The author's name, in this sense, does not refer purely and simply to a flesh-and-blood individual but fulfills a classificatory function in relation to discourse: it allows for the grouping of texts, their delimitation and mutual opposition, and thereby characterizes a determinate mode of existence, circulation, and valuation that certain discourses assume within a society. The author ceases to be an efficient cause and becomes an effect: the effect of an institutional system of attribution, valuation, and preservation that operates according to historically situated logics.

This transmutation of the author into the *function-author* carries decisive implications for the contemporary discussion of machinic authorship. If the author does not constitute an originary datum but is instead the effect of an institutional construction—one in which, as Bourdieu (1992) and Dubois (1990) would later show, an entire system of agents, instances, and struggles for symbolic capital intervenes within the literary field—then the humanist pretension to ground copyright in an inviolable subjective interiority is revealed as an ideological myth of Romantic provenance. The "creative genius," the inspired subject from whom the work would emanate *ex nihilo*, is not an anthropological constant but a historically situated representation that emerges, as Zapata (2011) observes, at precise moments in the modern institutionalization of literature: the rise of academies, of patronage, of literary salons, and, above all, the aesthetic regime of Romanticism, with its strategic reappropriation of the notions of genius, inspiration, and originality.

This is where the philosophical interest of revisiting Barthes and Foucault from the horizon opened by artificial intelligence becomes most acute. If the figure of the author was already, prior to the irruption of generative systems, an institutional construction—a *mise en scène* of the authorial project, in the terms proposed by Zapata (2011)—then the question of whether the machine can be an author ceases to be posed in the essentialist terms that dominate contemporary legal debate. The decisive issue is no longer whether the machine possesses a creative interiority equivalent to that of the human subject—a question that, as the preceding sections have shown, presupposes a humanism already impugned by the continental tradition itself—but rather under what historical and institutional conditions a given discourse, whether human, machinic, or hybrid, may be invested with the function-author.

Two consequences follow that bear directly on the present argument. The first is conceptual: the demystification of human creativity as *curation*—the reorganization of preexisting material, the operation *ex aliquo* analyzed earlier—finds in the death of the author its theoretical complement. If no creator begins *ex nihilo*, and if the author is itself an institutional effect rather than an originary subject, then the structural difference between a human writer recombining a cultural archive and a generative system navigating latent spaces is one of degree and mediation, not of ontological kind. The Averroist hypothesis of a shared intellect, recovered earlier in this essay, here acquires renewed force: authorship was never the private property of an interior self but the local crystallization of a common discursive sea.

The second consequence is juridical. The persistence of the Romantic paradigm in contemporary intellectual property law—crystallized in the requirement of the author's "personal creation" (*persönliche Schöpfung*), of "originality" understood as the expression of a subjective interiority, or of the "personal creation" demanded by Article 5 of the Spanish TRLPI—constitutes a striking theoretical anomaly. Copyright continues to operate on anthropological presuppositions that twentieth-century philosophy had already dismantled. While literary theory has recognized for more than half a century that what we call the author is, paraphrasing Foucault, the psychologizing projection onto an individual of the treatment applied to texts (Zapata, 2011), the legal order continues

to require, as a condition of protection, the existence of a creative subject in the strongest and most metaphysical sense of the term.

The paradox sharpens further when we recall that the theory of the function-author does not posit a nonexistent author but a constructed one: the writer does not precede the work as its originary cause but is constituted—textually and behaviorally—through an authorial project strategically deployed within the literary field (Zapata, 2011). Transposed to the context of artificial intelligence, this entails that the decisive question is not the ontological nature of the machine but the institutional conditions—juridical, social, mediatic—under which a given computational output may or may not be inscribed within the symbolic economy of authorship. The death of the author proclaimed by Barthes does not, then, close the problem; it opens it in its proper dimension. The author does not vanish; he is transformed into what, strictly speaking, he always was—a discursive function, a collective construction, an institutional effect—and, as such, becomes in principle available to be occupied by agents who need no longer, strictly, to be human.

The decentralization of the creative subject places us at a threshold where artificial intelligence ceases to be a mere simulacrum and instead emerges as an agent with its own operational logic. This transition opens the possibility of conceptualizing a genuinely nonhuman creativity, one that is not governed by conscious intentionality or phenomenological experience, but by the exploration of vast latent spaces through stochastic processing (Vanioff, 2025). By decoupling creation from the human subject, a production of forms and meanings emerges that, although it processes data of human origin, yields results that escape the hierarchies of our habitual perception.

As Diéguez (2017) argues, the risk of evaluating these processes through an anthropocentric lens is that we end up seeking a reflection of ourselves where, in reality, a radically technical alterity exists. In this sense, artificial intelligence does not merely automate tasks but generates a form of “computational creativity” grounded in the detection of patterns imperceptible to the human cognitive apparatus. This nonhuman mode of creation challenges us to recognize that meaning is no longer an exclusive emanation of the will, but an emergent phenomenon arising from complex data networks.

Boden (2004) posited that machines have the potential to be “as creative as anyone else”, especially as new computational concepts and programs are continually developed. Computational creativity researchers are focused on understanding and building computational systems that can act or produce outcomes that are judged to be creative by unbiased observers (Colton & Wiggins, 2012). This area of research argues that creativity is possible within machines (Boden, 2004) and may eventually branch in directions that are impossible for humans to achieve (Colton & Wiggins, 2012).

The FACE model of computational creativity (Colton & Wiggins, 2012) aims to advance considerations of computational creativity according to process rather than creator identity (e.g., human or machine; Colton & Wiggins, 2012). For instance, although we value certain human artists’ products because of their esteemed identity (e.g., Picasso, Mozart), we rarely judge human creativity solely based on the artist’s identity. The FACE model challenges computational creativity to frame (F) creative acts with culturally relevant information, have humans and AIs measure aesthetic (A) properties of a product, and have AIs produce concepts (C) and create examples (E) of products based on these concepts. FACE spotlights AI creative processes and the level of creative responsibility (Colton & Wiggins, 2012). Similar concepts of product, process, and producer have been applied to understand how automated scientists behave creatively in the production of novel scientific hypotheses, specifically in terms of their level of creative autonomy separate from human operators, their adjustment of their own goals during production, and their explanatory communications for aid in the external evaluation of their product (Toivonen & De Raedt, 2026). In part, engineering

creativity in machines rests on technical goals for developing intentional action or responsibility for the creation of products and ideas, extending beyond reasoning and problem-solving functions into the production of culturally meaningful outcomes. For example, instances of AIs inventing functions to generate novel ideas have been observed in early computational creativity projects (Colton & Wiggins, 2012).

Empirical studies of computational creativity suggest that AIs are increasingly approaching human-level creativity, especially in terms of AI flexibility in creative interpretation (Grassini & Koivisto, 2025) and similarities between human- and AI-created artwork (Oksanen et al., 2023). For instance, recent comparisons find more originality in the ideas produced by generative AI than some humans, but also more modularity and rigidity in semantic network structure (Domanti et al., 2026). Two non-technical constraints on machine creativity merit consideration. First, the concept of creativity, although broadly defined, may need to be redefined for the potential capabilities of AIs that could expand beyond their anchor to human-like processes, capabilities, and products (Colton & Wiggins, 2012). Second, there is a bias against the idea that machines can be creative, a belief that machines cannot be creative despite considerations of computational creativity and similar cognitive processes in human and digital minds. For instance, holding a mental schema that “AI cannot produce art” reduces evaluations of artistic value in AI-produced art (Hong & Curran, 2019). Further, conceptualizations of creativity may be shifting in a defensive response to achievements in computational creativity to both maintain a boundary between artificial and human creativity (Runco, 2025) and share creativity in co-creativity processes between humans and AIs (Qin et al., 2025).

Thus, the door is opened to an ontology of image and thought that does not require a “self” in order to be meaningful. In this new paradigm, creativity is understood as a system’s capacity to produce novel and valuable variations within a given domain, regardless of whether the agent possesses a biological structure or a self-conscious subjectivity.

To technically operationalize this transition, it is useful to revisit Margaret Boden’s (2004; 2011) distinction between three types of creativity: combinational, exploratory, and transformational. According to this framework, combinational creativity—understood as the synthesis of familiar ideas to generate novel concepts—and exploratory creativity—defined as the exhaustive traversal of the rules of an established conceptual space—are domains in which artificial intelligence not only matches but far surpasses human capabilities due to its processing power (Vanioff, 2025).

To create something “original,” in this context, does not necessarily mean breaking with all prior tradition, but rather producing an outcome that is surprising and valuable within a given frame of reference (H-creativity) or for a specific subject (P-creativity). AI can achieve this form of originality because it does not merely “copy”; instead, it navigates what are known as “latent spaces”: mathematical representations of concepts in which the algorithm discovers connections, trajectories, and forms that had never previously been materialized.

Through this stochastic navigation, the machine can uncover solutions that, although implicit in the data, remain invisible to the limited associative capacity of humans (Boden, 2004). While transformational creativity—understood as the capacity to alter the very rules of the aesthetic game—remains a matter of philosophical debate (Boden, 2011), Vanioff (2025) argues that the design of generative ecologies enables AI to co-participate even at this level. Algorithmic originality thus lies in its ability to “de-automatize” our gaze by offering variations that human bias typically discards. Consequently, AI is not merely a mirror of our cultural history, but a catalyst that accelerates the exploration of the possible, demonstrating that originality is ultimately an emergent property of computational complexity rather than a privilege of the biological mind (Haraway, 1995).

If the original has never been an absolute starting point but rather an effect of its relationship with what precedes it, why deny AI the possibility of participating in this process? To claim that “AI does nothing original” is equivalent to asserting that humanity has always done so—an assertion that does not withstand careful scrutiny (Carbajal, 2025). In both art and science, creativity emerges from a collective, historical, and cultural fabric in which no one begins from scratch. By recombining data and patterns, AI reproduces this same logic. Ultimately, originality may be better understood as an experience of novelty rather than an ontological property. Thus, one might ask: is what I am writing original?

This tension is precisely what now emerges in the field of AI: is AI merely an organizer of human patterns, or does its deployment introduce something that can no longer be attributed solely to the subject? Here it is illuminating to revisit the so-called heretic Averroes (1953), who in the Middle Ages defended the idea of a single intellect in which we all participate, yet which belongs to no one in particular. He used the metaphor of the sea: we may all immerse ourselves in it in different ways, but no one can claim ownership of it (Carbajal, 2025). This thesis was considered heretical because it denied the individual appropriation of intelligence and truth. Today, however, it can serve as an interpretive key: AI may be conceived as a new form of that common sea—a space for the production of knowledge and creativity that we all access, yet of which no one is the absolute owner (Averroes, 1953).

In conclusion, the demystification of creativity as an exclusively human stronghold allows us to move beyond the limits of humanist exceptionalism and to recognize artificial intelligence as an agent capable of generating genuinely original content. The machine is not confined to the mere repetition of patterns; its capacity to orchestrate combinational and exploratory syntheses that transcend the limited associative abilities of humans establishes it as an entity with its own autonomous creative logic. This ontological shift validates a form of “computational creativity” in which meaning emerges from complex data networks, independently of the will of a biographical “self.” Ultimately, the door opens to a posthumanist paradigm in which technology is not a mere simulacrum but a catalyst that radically expands the boundaries of the possible, transforming authorship into a hybrid and collective practice that redefines our understanding of the new in the contemporary era.

Social Psychological Resistance to Machine Creativity

Machines face a large hurdle to perceptions of their creativity, termed a “machine penalty” (Shank, 2025). People downgrade the value of machine created art, view it as less authentic, and sometimes perceive it to have lower aesthetic quality. This has implications for the willingness to consider intellectual property and moral rights for AIs and is rooted in fundamental beliefs about creativity and humanness, and psychological processes to feel good about belonging to distinct groups (Leonardelli et al., 2010; Martiny & Rubin, 2016; McFarland et al., 2012; Tajfel, 1974).

This causes many of the questions raised in relation to AI art or AI creativity to be dismissed or left unanswered, for example: Will art attributed to AI be evaluated in the same way as art attributed to humans? Should art markets even treat AI-made art as “art”? Does growing exposure to AI-made art impact evaluations of solitary human creativity or, as is also happening, evaluations of human artists using AI? (Horton et al., 2023, p. 1).

On the Value Of Human Identity

Humanness is important to people, as is perceiving and distinguishing humans from other entities (Bain et al., 2012; Banerji, 2023; Chu & Martin, 2021; Epley et al., 2007; Haslam et al., 2008, 2013; Haslam & Loughnan, 2014). People distinguish entities along two dimensions: warmth/experience/nature and competence/agency/uniqueness (Haslam & Loughnan, 2014; Yzerbyt et al., 2025), relying on notions of complex emotionality, cultural dynamics, and creativity to enshrine humanity as different from other entities (Doshi & Hauser, 2024; Haslam & Loughnan, 2014; Kashima et al., 2019; Colton & Wiggins, 2012). Machines are perceived to be lower on both dimensions, particularly warmth/experience/nature, than humans and other animals (Ladak et al., 2025). This matters because humanization and anthropomorphism are key factors driving human-machine interaction (Blut et al., 2021; Kim & Im, 2023; Pauketat & Anthis, 2022; Waytz, 2019; Waytz et al., 2010; Złotowski et al., 2014, 2015), suggesting that human identity and affirming humanness is an ongoing, important foundation for reactions to AI. This includes reactions to computational creativity and AI-generated artworks. The ineffable quality of humanness is so important to us that anthropomorphic design may be a precursor to intellectual property rights for machines and we may be willing to change meaningful benchmarks of creativity to ensure that machines do not qualify (Runco, 2025).

An additional consequence of perceiving AI as less than human is the reduction of perceived value in AI-produced artwork compared to human-produced artwork (Shank, 2025). This is despite the fact that people struggle to differentiate between AI and human artworks (Köbis & Mossink, 2021; Oksanen et al., 2023), suggesting that the value associated with being human plays a prominent role in (dis)crediting AIs (Bellaiche et al., 2023; Zhang & Gosline, 2023). Notably, the devaluation of AI creativity also strengthens perceptions of human creativity (Horton et al., 2023). Furthermore, people consider creativity to be a unique-to-human process by which society positively grows and changes, connecting previous, current, and future generations (Cassandro & Simonton, 2003). Meaning that, not only do we view creativity as a distinguishing attribute of creative individuals, but we also consider creativity a hallmark of our societies and species. In fact, Different studies show that people consistently tend to devalue art labeled as AI-created compared to art labeled as human-created (Horton et al., 2023, p. 1).

Beliefs about Creativity

Part of the meaning derived from human creativity might stem from our current opaque understandings of what comprises creativity. That is, the creative process is largely unavailable or hidden from human creators, making it seem to be a product of human freedom (Boden, 2004). Computational creativity, on the other hand, is more transparent in that the algorithms have to be written, systems have to be granted some level of autonomy, and the preconditions for the generation of novel, useful products have to be prespecified (Boden, 2004). However, these transparent rules and constraints on thinking are boundaries for creativity for all minds, not just AIs (Boden, 2004)/ We simply attend more to the origin of computational creativity than human creativity, preferring instead to think of it as unique and special.

Conceptual ambiguity surrounding what it means to be creative, or a “creative person”, may contribute to some of the resistance to attributions of creativity, aesthetic quality, and intellectual property or moral rights to AI-produced content. Even cognitive and human-computer interaction scientists who study creativity have no consensus on this concept (Frich et al., 2018). This leaves much room for folk beliefs about individuals, humanness, and uniqueness to moderate reactions to

AI creativity. For instance, in the case of creative genius, this quality is stereotypically associated with only some groups (e.g., men, philosophers, physicists; Bian et al., 2017; Cimpian & Leslie, 2017). It is treated like an exclusive, bounded category with distinctive individual members even within human social networks (Simonton, 2012; Xu, 2025). This suggests that people's beliefs about the transcendence, innateness, or uniqueness of human creativity might lead to resistance to intellectual property or moral rights for AI creators. Finally, there are also ways in which cognitive science perspectives on creativity may limit perceptions of creativity as being relevant only to entities with substantiated minds rather than as processes embedded in social systems (Das, 2022), a potential pathway to recognition of AI creativity through co-creativity interactions between humans and AIs. Although people increasingly perceive digital minds in advanced AI systems (Anthis et al., 2025; Manoli et al., 2025), considering these entities as individual persons with creative minds who could be entitled to legal rights might require an even larger departure from the status quo of human uniqueness.

At the intersection of human and AI creativity (i.e., co-creativity), there may be differing perspectives on what constitutes creative content, who is responsible for content creation (Wingström et al., 2024), and who has intellectual property or moral rights (Rahman & Gingrich, 2025) because of beliefs about computational creativity and how it has been engineered. Machines are designed and engineered by humans to produce outputs often in conjunction with human users (Davis et al., 2025; Qin et al., 2025; Wingström et al., 2024). Furthermore, generative systems have been trained on human data that has often been obtained without consent from the original creators, although sometimes with consent from governments but not artists (Rahman & Gingrich, 2025). This complex chain of beliefs about creativity, debates over idea ownership, and outputs produced through co-creativity interactions between humans and AIs again introduces doubt about the identity of the creator that could lead to increased support of the status quo (i.e., no moral rights for machines). Currently in co-creativity situations, intellectual property rights are granted to the human collaborator.

People might opt to maintain this status quo because generative AIs are an undefined emerging social category (Anthis et al., 2025; Kahn et al., 2011; Smith et al., 2021; Weisman, 2022). Furthermore, this relatively unknown emerging group may pose a risk to humans that people would prefer greater regulation to reduce their proliferation or ensure slow development (Bullock et al., 2025) rather than regulation to enable their social and moral expansion as individuals with rights. In one empirical study demonstrative of this unknown, people considered robot- and human-produced outputs to constitute artwork, but they did not consider robots to be “artists” in the same way as humans (Mikalonytė & Kneer, 2022). This again suggests beliefs about humanness, machines, and creativity shape resistance to AI-generated artists that may also produce a machine penalty and reduce the willingness to consider intellectual property or moral rights for AIs. Although, there is some evidence that credit for creativity may be attributed to machines with some anthropomorphic features (Epstein et al., 2020), and there are arguments that machine creativity is distinct from human creativity because of the lack of intentionality in current systems on one hand (Da Pelo, 2025; Runco, 2025), and the potentials of computational creativity to expand beyond human-like creativity on the other hand (Colton & Wiggins, 2012).

Can Machines Be the Authors of the Works They “Create”? Precedents and Foundations of Copyright and an Assessment of the Convenience of Extending Authorship to AI

Although copyright is now a well-established institution in most countries in our legal environment, it emerged relatively late in Europe: neither in classical Greece nor in Rome was authorship legally recognized or remunerated. In the Greek world, knowledge was regarded as a divine gift bestowed

by the Muses, and intellectual creation was associated more with reputation or social prestige than with economic compensation (Hesse, 2002, pp. 29–30). In Rome, there was likewise no systematic legal protection for authors. Although literary creation was valued, the legal order did not recognize exclusive rights over the exploitation of works (de la Durantaye, 2007, pp. 37–38). Artistic creation pursued for profit was regarded as socially inferior, and the earliest poets were seen as improvisers without a recognized professional status (de la Durantaye, 2007, pp. 43–44). Nor did a specific crime of plagiarism exist: the appropriation of manuscripts was socially reproached, yet Roman law protected only the material possession of the physical medium. Private actions such as the *actio iniuriarum* safeguarded honor and personality against certain offensive conduct (Periñán, 2021). While the *actio furti* allowed claims for the theft of letters or manuscripts without recognizing any rights over their intellectual content (de la Durantaye, 2007, pp. 88–90).

In the Middle Ages, “intellectual property” was likewise not conceived as such, although authorship and the cultural value of books were recognized. To prevent theft, monks and scribes inserted *ex libris* and curses into manuscripts in order to protect the material object rather than its content (Boba, 2016). These practices included threats of excommunication or divine punishment directed at anyone who stole or damaged the book (Kwakkel, 2015). Subsequently, with the invention of the printing press, the Church and governments began granting printing privileges and licenses to certain printers, conferring temporary exclusive rights that were intended more to control the circulation of ideas than to protect authors. “There was therefore no special sense of authorial property over writings; they were merely a form of expressing ideas, lacking the notion of originality that we attribute to them today” (Sánchez García, 2002, p. 3).

The germ of modern copyright, at least in its economic dimension, can be found in the so-called “printing privileges,” from which it follows that their beneficiary was not the author but the printer-bookseller. On the one hand, it was this figure who bore the obligation to present the book before the administrative authority, a prerequisite both for censorship and for obtaining the privilege (Marco Molina, 1994, p. 123). This situation changed with the Royal Order of 22 March 1763, which shifted protection to the author rather than the printer, as the monarch decreed “that henceforth no exclusive privilege to print any book shall be granted except to the very author who composed it” (Royal Order of 22 March 1763, as cited in Viñao Frago, 2000, p. 340). This development is virtually contemporaneous with the Statute of Anne of 1710, enacted in England and considered the first modern copyright law. Its preamble stated that printers had published books without the authors’ consent and established measures intended to prevent such practices and to encourage intellectual production (Statute of Anne, 1710).

In Spain, subsequent reforms such as the 1813 decree and the Calatrava Law consolidated the idea that the author was the owner of the work and that its appropriation could constitute an unlawful act comparable to theft (Vega García, 2023). The justification of copyright, like any other form of property, is grounded in labor, in the application of one’s own effort to the transformation of nature and preexisting reality (Marco Molina, 1994, p. 130). This principle was reflected in other laws of the period, such as the *Allgemeines Landrecht für die preußischen Staaten* and, in the Spanish case, Decree No. 265 of the Cortes of Cádiz of 10 June 1813, which regulated the “Rules to preserve to writers the property of their works,” as well as the Law of 5 August 1823. Although short-lived, these measures demonstrate the civil-law character of the institution (Marco Molina, 1994, p. 137), which was further reinforced by the Literary Property Law of 1847 and later by the Intellectual Property Law of 10 January 1879. This trajectory continued with the enactment of Law 22/1987 of 11 November and the promulgation of Royal Legislative Decree 1/1996 of 12 April, approving the consolidated text of the Intellectual Property Law (TRLPI).

Thus, the contemporary conception of copyright is grounded in three main ideas. First, the right arises automatically by the mere act of creating an original work, without the need for formalities or administrative registration (World Intellectual Property Organization [WIPO], 2016, p. 7). Second, it includes moral rights—such as the recognition of authorship and the integrity of the work—alongside economic rights that enable commercial exploitation through reproduction, distribution, public communication, translation, and adaptation (WIPO, 2016, pp. 9–11). Third, copyright has a limited duration, generally extending for the life of the author plus an additional period that is typically set at seventy years after death (WIPO, 2016, p. 19).

Work, Creativity and Author: An Analysis from a Philosophical-Legal Perspective

Under Spanish law, all original literary, artistic, or scientific creations expressed by any means or medium—whether tangible or intangible, currently known or yet to be invented—are subject to intellectual property protection (Article 10.1 TRLPI). In this respect, the requirement of an “original work” is essential for registration and protection, a concept that has been defined and refined by both doctrine and case law. Thus, the Barcelona Court of Appeal judgment of 27 January 2011, from a subjective perspective, understands originality as singularity, as not having copied a preexisting work, and as having been created *ex novo*. In this regard, a work is considered original when it reflects the author’s personality (Spanish Supreme Court, 26 October 1992). However, this is not always the case, as recalled by Tribunal Supremo. Sala de lo Civil. (2017):

(t)o determine whether an architectural work is original and therefore protected by intellectual property rules, it must be borne in mind that the functional character of most architectural works conditions many of their elements and, to some extent, restricts the architect’s creative freedom and possibilities for originality. (STS 253/2017, de 26 de abril, FJ 9.º.4)

On the other hand, Ruipérez de Azcárate (2012, pp. 28–29) argues that for a work to be considered creative it must involve: “(i) a personal creation (*Persönliche Schöpfung*), (ii) the expression of the creator’s intellect (*Geistiger Gehalt*), (iii) externalization (*Wahrnehmbare Formgestaltung*), and (iv) an individual character (*Individualität*).” This view has been strongly criticized by other authors such as López de Mántaras and Meseguer (2017, p. 8), who “do not believe that creativity is ‘...a mystical gift beyond the scope of scientific study, but something that can be investigated, simulated, and redirected for the benefit of society.’”

With regard to the concept of “author,” Royal Legislative Decree 1/1996, in Article 5, recognizes as such only a natural person:

1. “An author shall be considered the natural person who creates any literary, artistic, or scientific work.
2. Nevertheless, the protection granted by this Law to the author may benefit legal persons in the cases expressly provided therein”.

As can be seen, although the general rule is that a work requires the authorship of a natural person, the law allows—albeit only in limited and expressly provided exceptions—for legal persons to benefit from such protection. The law, under Article 7, also recognizes works of joint authorship, understood as “a work that is the unified result of the collaboration of several authors, belonging to all of them.” It likewise provides for collective works under Article 8, defined as those “created at the initiative and under the coordination of a natural or legal person who publishes and disseminates it under their name.”

Today, thanks to advances in AI, scholarly debate has emerged over whether a work created with the assistance of AI—or even entirely by AI—can fit within the legal categories of a collective work or a work of joint authorship. These foundations are being challenged by the emergence of creative artificial intelligence, which produces texts and images on the basis of human prompts and has reopened the debate as to whether robots can be considered genuine creators. Upon closer reflection, this situation resembles cases in which someone claims as their own a work executed by another on their behalf. Generative AI systems operate in a manner comparable to the workshops of Renaissance masters: the user provides the idea and sets the parameters, while the machine executes the work and may even suggest unexpected variations (Coeckelbergh & Gunkel, 2026). The phenomenon of the so-called “ghostwriter” is also well known: a professional who writes works that are published under another person’s name (Sivasubramaniam et al., 2016). However, even if this comparison is valid, we cannot ignore that, as noted above, the situation presented by increasingly advanced and autonomous AI has no true parallel.

From a philosophical perspective, some authors question the very necessity of copyright and even propose its abolition, arguing that it makes little sense to protect ideas given that they are not scarce—a position that may acquire renewed relevance in the age of AI (Von Gunten, 2015). Other approaches ask whether AI can genuinely generate new ideas or whether it merely recombines existing patterns (Boden, 2004). Still others, such as Herrera Romero (2025), contend that the incorporation of AI into artistic creation constitutes an ontological shift that transforms the conception of art and opens up a space for dialogical collaboration between humans and machines.

It is true that the vast majority of AI systems currently on the market can be regarded as tools; therefore, if an invention eligible for protection under intellectual property law is produced, it would belong to the owner of the AI. However, as Bennett and Daly (2020, p. 13) point out, “the question of copyright in works autonomously created by AI without human direction is more complex.” Indeed, as we have noted elsewhere, this is the first time we have encountered an entity capable of creating on the intellectual plane (Ruiz Osuna, 2025b).

Bercovitz (2017) rejects the possibility of a work of “intellect” whose authorship does not correspond to a human being, stating that “it would be absurd even to speculate about the possibility of a work of intellect whose authorship did not belong to a human” (p. 113).

For her part, Sanjuán Rodríguez (2019) examines the relationship between artificial intelligence and intellectual property, highlighting the structural problems posed by attributing authorship to autonomous systems. Likewise, Sanjuán Rodríguez (2019) suggests that when AI plays a leading role, we may be faced with a situation close to that envisaged in Article 8 of the consolidated text of the Intellectual Property Law (TRLPI) concerning collective works:

One could seek to accommodate this alternative route within the framework of Article 8 of the Intellectual Property Law, which regulates collective works. For this to be possible, the tasks of the natural or legal persons described above with respect to the creation of an AI-generated work would need to fall within the activities of ‘promoting and coordinating the editing and dissemination’ of the work, as required by Article 8 in order for a work to be considered collective. (Sanjuán Rodríguez, 2019, p. 91)

Whenever we think of a “protectable” work, we implicitly think of “creativity” and “originality” (Lacruz Mantecón, 2021, p. 65). The level of the author’s creative effort is also taken into account, such as the time invested, labor, and talent devoted to producing the work (Valdezate Pelegrín, 2024, p. 26). However, these principles have been moderated by Spanish case law, which has treated originality as a flexible and context-dependent requirement rather than as a demand for exceptional

inventiveness or novelty (Valdezate Pelegrín, 2024, p. 26). This nuance introduced by the Spanish Supreme Court is highly relevant because, regardless of whether we believe in the possibility of autonomous or creative machines—or even intelligent automatons (Ruiz Osuna, 2025a)—the reality is that the emergence of “new knowledge” has stagnated in recent decades (Bloom et al., 2020). Therefore, it is plausible that, in the future, most discoveries will be made by AI systems. This does not imply that humans will cease to create; rather, such discoveries will become impossible without ongoing collaboration with AI, which will increasingly play a central role in the creative process.

Could an AI Be Considered the Author of the Work It Creates? Discussion and Reform Proposals

The more conservative strand of scholarship seeks to establish links between the intelligent system and the human in order to identify a form of “remote” or indirect authorship, as argued by Lacruz Mantecón (2021, p. 88). This refusal to accept an artificial author goes even further in some doctrinal opinions, such as that of Saiz García, who states that “not even in the surprising case of the perfect emulation of the human brain by an artificial intelligence system could the result produced exclusively by the machine be classified as a work of intellect or give rise to copyright” (2019, p. 15).

Accordingly, one may question whether it is overly contrived to speak of copyright for an intelligent robot, given that it remains unclear whether such an entity can comprehend the moral dimension of that right. Nevertheless, law, as a social instrument, might consider it advisable to recognize such rights for robots from a markedly instrumental perspective. Since the holder of copyright enjoys the economic right to authorize or prohibit certain uses of the work or, in some cases, to receive remuneration for its use (Duque Lizarralde, 2018), it could prove highly useful, in certain circumstances, to recognize this right for AI systems.

Of course, this would have to concern an entity capable of demonstrating autonomous creative capacity, without being directed or supervised by a human agent. To this end, it should at least meet certain requirements: it must produce works that are original, operate autonomously, and possess discretion as to whether or not to produce the work (Vásquez Leal, 2020).

The problem is that the characteristics often demanded of an intelligent bot or robot are difficult to prove. In this sense, the issue may lie in the difficulty scholars face in accepting the possibility of a conscious robot—or, in any case, in the fact that even if such consciousness existed, it would be extremely difficult to demonstrate, as Amunátegui Perelló (2020) notes:

I know that I am conscious because I perceive myself (as in the Cartesian *cogito ergo sum*), but I do not know whether you, the reader, are conscious. I project onto you my own human characteristics and assume that you are also a conscious being, but in truth I am incapable of determining it. (p. 39)

Whether or not we can prove the possibility of a “self-aware” AI, the reality is that these systems are becoming increasingly autonomous. This is illustrated by experiences such as the RAGHAV program, an AI that imitated Van Gogh’s style to create a painting that was commercialized in 2021 (Carmona, 2021). This context compels a reinterpretation of judicial precedents on originality. In *Infopaq*, the Court of Justice of the European Union (CJEU) held that even an extract of eleven words from a literary work may be protected if it constitutes an expression of the author’s intellectual creation (Court of Justice of the European Union [CJEU], 2009, Case C-5/08). The *Cofemel* decision of 2019 confirmed that any design qualifying as a “work” because it expresses intellectual creativity enjoys protection without requiring a higher artistic threshold and allows the coexistence of design and

copyright protection (CJEU, 2019, Case C-683/17). These rulings demonstrate that originality alone is sufficient to trigger protection. Meanwhile, the UK Copyright, Designs and Patents Act attributes authorship of a computer-generated work to the person who makes the necessary arrangements for its creation. Villalobos Portalés (2022) interprets this provision as a possible recognition of artificial authorship, although Bennett and Daly (2020) warn of the complexity of attributing rights to works produced autonomously by AI.

What, then, occurs when we are confronted with a work generated wholly or partially by AI? At first glance, several possible solutions appear. One would be to consider works created by an autonomous intelligent entity as belonging to the public domain. Since an intelligent robot is not, under current law, a human subject (even assuming it might possess a moral dimension) (Ruiz Osuna, 2025a), we would be faced with an artistic creation or scientific innovation “without an author” for the purposes of the current wording of the Intellectual Property Law (Art. 5) and, therefore, susceptible to appropriation by anyone.

If the intelligent robot is trained on data generated by society as a whole, and if any harm caused by such systems is to be borne collectively through a compensation fund, might the fruits of those robots also belong to the citizenry as a whole?

Recently, in February 2023, the United States Copyright Office ruled that images created with AI cannot be registered for copyright. Briefly summarizing the facts, a writer, Kristina Kashtanova, had created a visual novel titled *Zarya of the Dawn*, in which she used images generated by the AI system Midjourney. Users operate Midjourney through prompts—text commands entered into one of the platform’s channels. These instructions must begin with the command “/imagine” and include a textual description of what the AI should generate (United States Copyright Office, 2023).

The Office concluded that merely giving instructions to a program to produce an image does not constitute sufficient “creative contribution” for the generated images to qualify for copyright protection. Specifically, the Office stated: “The Office will not register works produced by a machine or mere mechanical process that operates randomly or automatically without any creative contribution or intervention from a human author” (U.S. Copyright Office, 2023, p. 16192).

A similar position was taken by the United Kingdom Supreme Court in *Thaler v Comptroller-General of Patents, Designs and Trade Marks* (2023), which held that, under the Patents Act 1977, the term “inventor” necessarily refers to a natural person. The Court emphasized that the normative structure of the British patent system presupposes that an inventor must be capable of holding and transferring rights, thereby excluding non-human entities.

Australia initially offered a broader interpretation. In 2021, the Federal Court held that the term “inventor” could be understood as an agent noun not necessarily limited to humans (*Thaler v Commissioner of Patents*, 2021). However, this interpretation was overturned on appeal by the Full Court in 2022, which reinstated the requirement of human personality (*Commissioner of Patents v Thaler*, 2022).

In Mexico, the Specialized Chamber on Intellectual Property of the Federal Administrative Justice Court (Case No. 788/24-EPI-01-2, 2024) confirmed the refusal to register a work generated by artificial intelligence, holding that the Federal Copyright Law reserves authorship to natural persons. This criterion was later upheld by the Supreme Court in *Amparo Directo* 6/2025, which declared that works generated exclusively by AI lack a human author and are therefore not eligible for copyright protection.

At the European level, the European Parliament adopted a resolution in 2020 stating that works autonomously generated by artificial intelligence should not benefit from copyright protection where there is no sufficient creative human intervention (European Parliament, 2020). This position is consistent with the established case law of the Court of Justice of the European Union, which in *Infopaq International A/S v Danske Dagblades Forening* defined originality as requiring the “author’s own intellectual creation” (Infopaq, 2009), an expression that presupposes a natural person as the creative subject.

Such extreme rigidity regarding the possibility of “creative works of non-human authorship” could, in the not-too-distant future, give rise to undesirable societal consequences. The mere fact that a work created entirely and independently by AI does not enjoy copyright protection would result in those works entering the public domain, which in some sense could benefit humanity as a whole. However, since such works would be cheaper due to the absence of copyright royalties, they might ultimately be acquired in greater quantities than human-created works (Moreno, 2023, p. 4).

The refusal to allow a work created wholly or partially by AI (Ginsburg, 2018) to be registered may prove effective only in the short term. This is because AI’s capacity to emulate human output is reaching levels capable of deceiving the human eye, making it increasingly difficult to distinguish whether a work has been generated by AI or by a human being. A telling example is the case of Seedance 2.0, an AI trained by ByteDance on the entire Douyin library, the Chinese version of TikTok. The result is a system capable of understanding nuances of facial expression, natural body movement, and the physics of light on real surfaces (Díaz, 2026). Such systems can produce ultra-realistic videos from just two or three lines of user prompts. If AI continues to scale at the pace observed since the late 2010s (Tang et al., 2020), it is not surprising that it may soon become impossible to determine whether a work is entirely human-made. Indeed, there is already a precedent: it was recently discovered that the renowned philosopher Jianwei Xun—once widely praised—was in fact an AI (Modrón Lecue, 2025). These examples show that the possibility of creations produced almost entirely by AI is no longer a futuristic scenario but a present reality (Lacort, 2024).

For this reason, a legislative reform that protects machine creativity could be considered. In our view, this could be pursued in two ways:

1. **Through *lege ferenda* recognition of “artificial authorship.”** At the current state of the art, this position may seem ineffective, since even the most advanced AI systems still lack the will or need to produce works on their own initiative. Nevertheless, caution is warranted in this regard. The emergence of so-called “agents,” such as Clawdbot, shows that machines are gradually gaining greater autonomy (Fernández, 2026).
2. **By adopting an intermediate position that recognizes, at least, the moral right of authorship for the bot or robot that actually produced the work.** This may appear a bold proposal; however, upon closer analysis, the legal system already recognizes rights for non-human entities. Scholarship has emphasized that legal personality is a functional construct of the law, attributed when it proves useful for social and economic organization, which explains why legal persons hold numerous rights despite lacking corporeality (Kurki, 2019).

In this context, it would not be conceptually impossible for an intelligent automaton with certain characteristics—such as those defined in previous work (Ruiz Osuna, 2025a)—to be considered the holder of moral authorship rights. Indeed, several scholars have defended the possibility of recognizing legal personality or a specific legal status for autonomous systems as a regulatory tool, precisely in order to manage liability and the attribution of rights (Bertolini, 2013; Bryson, Diamantis & Grant, 2017).

Likewise, the historical evolution of copyright reveals a gradual expansion of the circle of subjects and models of ownership, moving away from the romantic paradigm of the individual author and embracing increasingly complex schemes for the attribution and management of rights (Ginsburg, 2003).

Naturally, the exercise of economic rights would have to be managed by the owner or possessor of the system, but this solution is not foreign to existing law. Scholarship has emphasized that the ownership and exercise of rights can be functionally separated, particularly in situations of representation or incapacity, demonstrating that the attribution of rights does not necessarily require the full legal capacity of the rights holder (Kurki, 2019).

This solution would make it possible to assess the present and future impact of AI in the production of creative works (Ruiz Osuna, 2019). Currently, thousands of AI-generated works of all kinds are being commercialized without our knowledge. At the very least, under our proposal, it would always be clear which works result from human-machine collaboration. Moreover, as we have previously argued (Ruiz Osuna, 2025a), granting robots economic rights could facilitate their integration into society and into legal and commercial transactions, insofar as it would also help to cover potential damages they might cause.

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Use of AI

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