

Can AI Author Copyrightable Work? The Supreme Court Just Declined to Say Yes

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As artists and creators integrate artificial intelligence (AI) tools into their work, courts are re-evaluating traditional notions of authorship under the Copyright Act of 1976. This past March, the issue of whether an AI system may qualify as an “author” under the Copyright Act reached the United States Supreme Court. In denying certiorari in *Thaler v. Perlmutter* (25-449) (the “Thaler Case”) on March 2, 2026, the Supreme Court left intact

a D.C. Circuit Court of Appeals Decision holding AI-generated artwork without meaningful human contribution is not entitled to copyright protection under the Copyright Act's human authorship requirement.

The *Thaler* Case arose from the work titled "A Recent Entrance to Paradise" ("Work"), which was made by the "Creativity Machine," a generative AI system developed by computer scientist Dr. Stephen Thaler:



