

Not Human Enough – District Court Rejects Copyright For AI Artwork

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by Kaleb McNeely

Artificial Intelligence (AI) is one of the hottest topics in technology, with businesses studying how to utilize its benefits and at least some workers wondering if smarter and cheaper AI technologies will replace them. Here at the TMCA, we have been covering an AI-related issue of particular interest to IP attorneys – the ongoing battle of Dr. Stephen Thaler to copyright artwork created by AI software. Back in June 2022, Thaler filed a federal [lawsuit](#) in the District of Columbia challenging the Copyright Office’s refusal to register artwork Thaler had created using AI on the basis that human authorship is a requirement for copyright protection. Thaler then moved for [moved for summary judgment](#) in January 2023 on the sole legal issue of whether an AI-generated work is copyrightable, and Copyright Office cross-moved on the same issue. As we noted at the time, Thaler had a creative argument. In brief, Thaler posited that an AI programmer is like an employer, the AI is like an employee, and so a programmer like Thaler should be considered the owner of the AI artwork created by the AI/employee under the work for hire doctrine.

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