

Key generative-AI rulings shed light on challenges surrounding copyright and personality rights

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The Chinese courts have established a framework of rules for the copyright and personality rights protection of AI-generated works through several crucial decisions. While ownership and infringement challenges persist, these rulings are valuable for addressing IP challenges brought about by generative AI.

The development of generative AI has introduced unprecedented challenges to IP protection and is attracting global attention. China has attempted to address these issues through legislative and judicial means.

China's only legal text that specifically addresses the topic of generative AI is the Interim Measures for the Management of Generative AI Services, which was released on 10 July 2023. Article 7 of this regulation explicitly outlines the obligations of generative-AI service providers when it comes to data processing, including:

- using data and foundational models from legitimate sources;
- avoiding infringement of IP rights; and
- obtaining personal consent or complying with legal and regulatory requirements for personal information.

This regulation established a legal baseline for the relationship between the developer of an AI algorithm and the copyright owners of data used by the developer to feed and train the algorithm, but more clarification from judicial cases was needed.

Copyright challenges

The issue of copyright infringement during both the training and generation phases of AI-created works sparked extensive discussion. In March 2024, the Guangzhou Internet Court delivered a judgment in *Xinchuanhua v an AI Company*. In this case, the defendant's AI platform generated an image that was substantially similar to the plaintiff's Ultraman character, of which the plaintiff held the copyrights. The court ruled that the defendant had, without authorisation, copied and adapted the plaintiff's

work and infringed upon its reproduction and adaptation rights. Additionally, the court specified several key duties of AI service providers:

- notifying users via service agreements that they must not infringe upon others' copyrights;
- establishing a complaint mechanism for rights holders to protect their copyrights; and
- providing prominent identification in case the AI-generated content could cause public confusion or misidentification.

Ultraman character	Infringing images
	

On 18 October 2024, the Changshu Court in Jiangsu Province handed down a judgment in *Lin Chen v Hangzhou Gaosi Membrane Technology*. In this case, the plaintiff had used AI to create a visual artwork called "With Heart". The defendant had created a physical installation resembling half a heart, which was similar to the plaintiff's work. The court found that the "With Heart" image was distinctly original in its composition and arrangement of elements such as cityscape, water, buildings and reflections, and thereby qualified as a visual artwork under copyright law and merited protection.

However, copyright protection was only extended to this 2D work and not the 3D installation. The court noted that copyright law does not protect ideas or concepts, and copyright holders cannot prevent others from using the ideas conveyed in their works. Therefore, the defendant's use of a similar concept did not constitute infringement. However, the unauthorised use of the plaintiff's image for online promotion, which was found to be nearly identical to the original, did infringe upon the plaintiff's right to distribute the work online.

The AI artwork "With Heart"	The defendant's physical installation
	

In addition to copyright issues, AI-generated works also involve personality rights. On 23 April 2024, the Beijing Internet Court heard China's first case of AI-generated voice personality rights infringement. A Beijing-based cultural media company used an actor's voice without permission to create an AI-generated audio product, which it sold on its platform. The court held that a natural voice – distinguishable by tone, pitch and frequency – is unique and identifiable, thereby enabling an audience to associate it with a specific person. If AI-generated voices can be linked to an individual based on these characteristics, then the individual's personality rights extend to the AI-generated product. Therefore, the defendant's actions were deemed to have infringed upon the plaintiff's personality rights.

Similarly, the court ruled that unauthorised use of a public figure's likeness and name to create a virtual character also infringes upon image, name and general personality rights.

These rulings clarified how personality rights should be protected in the realm of AI-generated works, providing crucial guidance for judicial practice.

Key takeaways

China has preliminarily established a framework of rules for the copyright and personality rights protection of AI-generated works through regulation and judicial practices. While disputes persist with regard to ownership and infringement of AI-generated works, these rulings and regulations provide valuable reference points for addressing IP challenges brought about by generative AI.