# AI Illustrative Works: Originality and Copyright in Indonesian and Swedish Law

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## Abstract

The emergence of AI-generated illustrations challenges copyright frameworks globally. This normative study compares Indonesia's static Copyright Law with Sweden's progressive EU-aligned system. While both jurisdictions deny copyright to purely AI-created works due to unmet originality requirements, Sweden's sophisticated approach through neighboring rights and AI Sweden's R&D initiatives demonstrates greater adaptability. Indonesia's rigid human authorship mandate under Article 1(2) UUHC 28/2014 risks technological irrelevance. The analysis recommends Indonesia establish specialized AI governance mechanisms and adopt tiered protection for human-AI collaborations, emulating Sweden's balanced approach under the EU AI Act. Strategic alignment with WIPO standards could bridge the growing regulatory gap while preserving creator rights. The findings highlight the urgent need for developing nations to modernize intellectual property systems in response to disruptive technologies. Sweden's dual strategy of legislative harmonization and research investment offers a replicable model for jurisdictions facing similar AI challenges. This comparative analysis contributes to global discourse on copyright adaptation in the age of generative AI.
**Keywords:** artificial intelligence, authorship, comparative study, copyright, originality


## *Abstrak*

*Perkembangan pesat sistem kecerdasan buatan yang semakin canggih mampu menciptakan ilustrasi digital telah secara fundamental mengubah paradigma hak cipta tradisional. Penelitian hukum normatif ini menganalisis secara komparatif kerangka hukum hak cipta untuk ilustrasi hasil AI di Indonesia dan Swedia. Melalui kajian terhadap instrumen hukum primer termasuk UUHC Indonesia (UU 28/2014) dan Lag (1960:729) Swedia, penelitian mengungkap kedua yurisdiksi secara sistematis mengecualikan ilustrasi AI dari perlindungan hak cipta karena ketidakmampuan memenuhi syarat orisinalitas. Studi ini merekomendasikan percepatan pembaruan regulasi Indonesia melalui pengadopsian standar internasional. Langkah yang diambil oleh Swedia dalam mengimplementasikan EU AI Act dapat menjadi referensi bagi penyusunan kebijakan di Indonesia agar lebih responsif terhadap perkembangan yang terjadi di masyarakat sekaligus menjaga keseimbangan antara perlindungan hak cipta dan perkembangan teknologi.*
***Kata kunci:*** *hak cipta, kecerdasan buatan, kepemilikan, orisinalitas, perbandingan hukum*

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## 1. INTRODUCTION

Digital transformation has profoundly altered how individuals interact, work, and innovate, with far-reaching effects on social, economic, and cultural domains.[1] Technological advancements have accelerated information access, expanded opportunities for collaborative participation, enhanced public service delivery, and increased productivity across diverse sectors.[2] These changes have fostered a more connected, data-driven society while dissolving traditional boundaries that once limited the pace and reach of innovation.[3]

Artificial Intelligence (AI) represents one of the most influential drivers of this transformation. The term was first introduced by John McCarthy during the 1956 Dartmouth Summer Research Project, marking the inception of a scientific pursuit to replicate human reasoning, learning, and problem-solving processes.[4] AI development has since enabled the emergence of machine-generated creative content, commonly referred to as Artificial Intelligence-Generated Content (AIGC).[5] These outputs include artistic and illustrative works produced by AI systems, thereby raising critical questions about legal recognition and the enforceability of copyright protection.[6]

The application of generative AI technologies, such as Midjourney, OpenAI's DALL·E and ChatGPT, has redefined the production of visual art. These platforms can create detailed and conceptually sophisticated illustrations based solely on text-based prompts.[7] Their capability stems from algorithmic learning drawn from extensive visual datasets, enabling the generation of content that appears original despite lacking human

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[1] Josephine Wolff, "How Is Technology Changing the World, and How Should the World Change Technology?," Global Perspectives 2, no. 1 (August 24, 2021): 27353, https://doi.org/10.1525/gp.2021.27353.

[2] Nicolas Didier, "Turning Fragments into a Lens: Technological Change, Industrial Revolutions, and Labor," Technology in Society 77 (2024): 102497.

[3] Didier.

[4] John McCarthy, "What Is Artificial Intelligence?" (Stanford University, 2007).

[5] Xutian Wang, Yan Hong, and Xiaoming He, "Exploring Artificial Intelligence Generated Content (AIGC) Applications in the Metaverse: Challenges, Solutions, and Future Directions," IET Blockchain 4, no. 4 (December 2024): 365–78, https://doi.org/10.1049/blc2.12076.

[6] Wang, Hong, and He.

[7] Danhuai Guo et al., "AIGC Challenges and Opportunities Related to Public Safety: A Case Study of ChatGPT," Journal of Safety Science and Resilience 4, no. 4 (December 1, 2023): 329–39, https://doi.org/10.1016/j.jnlssr.2023.08.001.

authorship.[8] This technological evolution has introduced complex legal questions surrounding the definition of originality and authorship in AI-generated works.[9]

Authorship of AI-generated illustrations remains legally ambiguous. Determining whether copyright belongs to the AI system, the user providing input, or the operator of the underlying technology remains contentious.[10] Many AI-generated illustrations draw upon or resemble existing copyrighted works, raising concerns over potential plagiarism and copyright infringement.[11] The problem is further complicated by the originality threshold, as most AI outputs are derivative of prior data patterns, making it uncertain whether such works satisfy the originality requirement in copyright law.[12]

Originality functions as a cornerstone of copyright protection.[13] Works generated by AI challenge conventional legal definitions of originality, given that AI systems lack consciousness or human creative agency.[14] This has sparked legal and academic debate regarding the eligibility of AI-generated for copyright protection. Some scholars assert that human contribution remains works essential, whether through algorithm design, data curation, or prompt engineering.[15] Others argue that autonomous AI-generated content should receive legal recognition irrespective of direct human input.[16]

Legal uncertainty is particularly evident in Indonesia. Law No. 28 of 2014 concerning Copyright only extends protection to works created by humans. Article 1(2)

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8   Nicola Lucchi, "ChatGPT: A Case Study on Copyright Challenges for Generative Artificial Intelligence Systems," July 28, 2024, https://www.cambridge.org/core/journals/european-journal-of-risk-regulation/article/chatgpt-a-case-study-on-copyright-challenges-for-generative-artificial-intelligence-systems/CEDCE34DED599CC4EB201289BB161965.

9   Nicola Lucchi.

10  Yongqi Lou, "Human Creativity in the AIGC Era," *She Ji: The Journal of Design, Economics, and Innovation* 9, no. 4 (December 1, 2023): 541–52, https://doi.org/10.1016/j.sheji.2024.02.002.

11  Wang, Hong, and He, "Exploring Artificial Intelligence Generated Content (AIGC) Applications in the Metaverse."

12  Wang, Hong, and He.

13  Hafiz Gaffar and Saleh Albarashdi, "Copyright Protection for AI-Generated Works: Exploring Originality and Ownership in a Digital Landscape," *Asian Journal of International Law* 15, no. 1 (January 2025): 23–46, https://doi.org/10.1017/S2044251323000735.

14  Gaffar and Albarashdi.

15  Huma Rubab et al., "Copyright and AI-Generated Content: A Comparative Analysis of Legal Perspectives in China and the United States," *International Journal of Social Science*, May 24, 2024, 387–95.

16  Yuchen Lu, "AI-Generated Content and Its Legal Status Under Copyright Law," *Journal of Education, Humanities and Social Sciences* 35 (July 4, 2024): 218–25, https://doi.org/10.54097/tz90a677.

defines a protected work as an expression of the creator's personality, thus excluding AI-generated content from eligibility.[17] The National Strategy for Artificial Intelligence 2020–2045, developed by Indonesia's Agency for the Assessment and Application of Technology (Badan Pengkajian dan Penerapan Teknologi—BPPT) addresses the broader framework of AI development but does not regulate copyright protection for AI-generated works.[18] This regulatory gap signals the urgency for more adaptive legal frameworks capable of addressing emerging issues in intellectual property law.

Sweden presents a contrasting legal approach. Copyright protection in Sweden is not extended to works entirely generated by AI systems without substantial human involvement.[19] If human users contribute creative input that materially shapes the resulting work, such contributions may qualify the output as an AI-assisted creation, subject to protection as determined by judicial interpretation.[20]

This study aims to critically examine and compare the copyright status of AI-generated illustrative works under Indonesian and Swedish law. The analysis focuses on the application of the originality principle, determination of authorship, enforcement mechanisms, and the legal adaptability of each jurisdiction. Through a comparative framework, this research identifies both convergences and divergences in legal approaches and seeks to contribute to the development of a more coherent and future-oriented copyright regime.

The selection of Indonesia and Sweden as comparative jurisdictions is based on their strategic relevance. Both countries operate under civil law systems and maintain established copyright regimes. Indonesia, as a developing jurisdiction, faces ongoing challenges in adapting legal doctrine to rapid technological shifts. Sweden, by contrast, demonstrates an advanced and proactive legal response to digital innovation.

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[17]  PRV, "Copyright on AI Images," June 8, 2024, https://www.prv.se/en/copyright/for-users/copyright-on-ai-images/.

[18]  Zahrasafa P Mahardika and Angga Priancha, "Pengaturan Hukum Artifical Intelligence Indonesia Saat Ini," hukumonline.com, 2021, https://www.hukumonline.com/berita/a/pengaturan-hukum-artifical-intelligence-indonesia-saat-ini-lt608b740fb22b7/.

[19]  PRV, "Copyright on AI Images."

[20]  PRV.

Sweden's position in the 2024 Global Innovation Index, published by the World Intellectual Property Organization (WIPO), underscores its leadership in legal and technological development.[21] Sweden is in the process of fully adopting the European Union's AI Act by 2026 and has established AI Sweden, a national initiative focused on advancing AI research, innovation, and policy development.[22] These developments reflect Sweden's institutional capacity to address legal uncertainties posed by AI in a systematic and progressive manner.

Existing literature has identified significant legal uncertainties surrounding AI-generated content. Aulia et al. (2023) found that Indonesia lacks a comprehensive regulatory framework to govern AI-generated artworks, underscoring the pressing need for legislative reform.[23] Widodo and Bakir (2024) analyzed the legal ambiguity in AI-assisted voice cloning and recommended the establishment of clear statutory protections to uphold musicians' rights.[24] Eviani et al. (2024) proposed a fault-based liability model, arguing that current instruments, such as the Digital Millennium Copyright Act (DMCA), fail to adequately address the distinctive nature of AI-related infringement.[25] Fatmawati and Mangar (2024) asserted that the absence of legal personhood for AI complicates the determination of authorship and authorship under existing intellectual property law.[26]

This research departs from previous studies by focusing on the originality and authorship of AI-generated illustrative works. The analysis compares Indonesian and

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[21] WIPO, "Sweden Ranking in the Global Innovation Index 2024.," GII Innovation Ecosystems & Data Explorer, 2024, https://www.wipo.int/gii-ranking/en.

[22] Future of Life Institute (FLI), "AI Act Implementation Timeline," n.d., https://artificialintelligenceact.eu/implementation-timeline/.

[23] Cantika Aulia, Egi Nugraha, and Raja Benhard Parlindungan, "The Copyright Responsibilities of Artificial Intelligence in the Digital Age," *Indonesia Law Reform Journal* 3, no. 2 (July 30, 2023): 145–54, https://doi.org/10.22219/ilrej.v3i2.26042.

[24] Wahyu Widodo and Herman Bakir, "Legal Certainty of Limitations on the Use of Artificial Intelligence (AI) Voice Cloning in Songs and Music as A Form of Protection of Musicians' Copyrights," in Proceedings of the 4th International Conference on Law, Social Sciences, Economics, and Education, ICLSSEE 2024, 25 May 2024, Jakarta, Indonesia (Proceedings of the 4th International Conference on Law, Social Sciences, Economics, and Education, ICLSSEE 2024, 25 May 2024, Jakarta, Indonesia, Jakarta, Indonesia: EAI, 2024), https://doi.org/10.4108/eai.25-5-2024.2349353.

[25] Nanda Yuniza Eviani, Maskun, and Ahmad Fachri Faqi, "Legal Challenges of AI-Induced Copyright Infringement: Evaluating Liability and Dispute Resolution Mechanisms in Digital Era," *Jambura Law Review* 6, no. 2 (July 2024): 403–28, https://doi.org/10.33756/jlr.v6i2.24459.

[26] Rahma Fatmawati and Irma Mangar, "Legal Implications of Artificial Intelligence (AI) as a Legal Subject on Intellectual Property Rights," *Journal of Development Research* 8, no. 1 (2024): 1–6.

Swedish copyright law, aiming to support the development of more adaptive legal frameworks. The comparative perspective provides a basis for future policy reform and guidance for jurisdictions addressing similar legal uncertainties.

## 2. RESEARCH METHODS

This study employs a normative juridical method to examine the legal status and copyright protection of AI-generated illustrative works. The research uses statutory, conceptual, and comparative approaches. The statutory approach focuses on the analysis of copyright laws in Indonesia and Sweden. The conceptual approach explores the principles of originality and authorship in relation to non-human creators. The comparative approach is used to identify the similarities and differences between both legal systems and to evaluate their capacity to respond to technological developments through adaptive legal frameworks.

## 3. RESULTS AND DISCUSSION

Illustrations are visual works created to convey, interpret, or clarify ideas, messages, or narratives through a variety of media.[27] These may include drawings, digital graphics, paintings, caricatures, and photographs. Beyond their decorative function, illustrations serve as communicative tools that support the transmission of abstract or complex information, often enhancing aesthetic and semantic dimensions of content.[28] The etymology of the term also links to illusion, referring to the mental projection of imagined realities, further emphasizing its interpretive and perceptual nature.[29]

Artificial Intelligence (AI)-generated illustrations differ fundamentally from traditional illustrations.[30] These are created autonomously or semi-autonomously by algorithmic models based on prompts or training datasets, often without direct manual input in the expressive process.[31] This technological shift has raised critical legal

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[27] Jaleen Grove, "What Is Illustration? A Shadowy Definition for Illustration Research," *Journal of Illustration* 11, no. 1 (April 1, 2024): 21–44, https://doi.org/10.1386/jill_00083_1.
[28] Grove.
[29] Alan Male, *Illustration: A Theoretical and Contextual Perspective* (Bloomsbury Publishing, 2023).
[30] Guo et al., "AIGC Challenges and Opportunities Related to Public Safety."
[31] Guo et al.

questions regarding the eligibility of such outputs for copyright protection under existing legal frameworks that center on human authorship and originality.

### 3.1. The Concept of Originality in AI-Generated Illustrations in Indonesia and Sweden

Indonesian Copyright Law No. 28 of 2014 articulates originality as an inherent requirement for legal protection. Article 1(2) defines a creator (pencipta) as an individual or group of individuals who, individually or jointly, produce a work that bears distinctive and personal character. Article 1(3) further defines a creation (ciptaan) as any intellectual work in the fields of science, art, or literature, generated through inspiration, thought, imagination, dexterity, skill, or expertise, and expressed in a tangible form. These provisions indicate that a work must reflect the personality of its creator and constitute the result of intellectual and creative effort expressed concretely, thereby reinforcing the anthropocentric basis of authorship under Indonesian copyright law.[32]

Currently, Indonesian jurisprudence has not addressed the copyright status of fully AI-generated illustrations. However, legal scholars and policymakers have proposed frameworks, such as the four-step originality test introduced by Ari Juliano, to assess whether a work involving AI includes sufficient human intervention to meet originality standards.[33] This test evaluates elements such as creative control through prompts, the degree of modification applied to AI output, the final embodiment of the work, and the presence of individual expression.[34] The absence of clear case law or statutory reform, however, leaves a significant legal gap regarding fully autonomous AI-generated illustrations.[35]

Contrary to Indonesia's explicit statutory provisions, Swedish copyright law does not define originality within the text of the Swedish Copyright Act (Lag 1960:729). As a

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[32] Direktorat Jenderal Kekayaan Intelektual, "Orisinalitas Kunci Karya Mendapat Pelindungan Hak Cipta," AGENDA KI, February 20, 2023, https://www.dgip.go.id/index.php/artikel/detail-artikel-berita/orisinalitas-kunci-karya-mendapat-pelindungan-hak-cipta.

[33] Willa Wahyuni, "UU Hak Cipta Belum Spesifik Atur Karya AI, Praktisi Sarankan Uji 4 Langkah," hukumonline.com, April 24, 2025, https://www.hukumonline.com/berita/a/uu-hak-cipta-belum-spesifik-atur-karya-ai--praktisi-sarankan-uji-4-langkah-lt680a303f78985/.

[34] Wahyuni.

[35] Wahyuni.

member of the European Union, Sweden is bound by the interpretative standards established by the Court of Justice of the European Union (CJEU)[36], which require that a work constitute the author's own intellectual creation. Decisions such as *Infopaq* (C-5/08), *Painer* (C-145/10), and *Cofemel* (C-683/17) articulate that this originality must derive from free and creative choices and manifest the author's personal expression.[37] Domestic application of this standard is reflected through the doctrine of *verkshöjd*, which mandates that a work possess a discernible degree of individuality and originality.[38] Swedish courts consistently apply this threshold, thereby reinforcing conformity with EU jurisprudence and securing legal certainty in the protection of intellectual works.

Both jurisdictions emphasize the necessity of originality and human involvement in determining copyright eligibility, but their adaptability to AI-generated illustrations differs significantly. While Indonesia's legal structure implicitly excludes non-human creators, it lacks detailed guidance or judicial elaboration on how to assess AI-assisted works. In contrast, Sweden, guided by CJEU standards, provides a more articulated framework but remains cautious in accepting AI outputs without demonstrable human creativity.

The legal recognition of detailed prompts submitted to generative AI systems as a basis for authorship remains uncertain across jurisdictions. In Indonesia, prompts that lack substantial creative complexity are unlikely to satisfy the subjective threshold of originality required under copyright law.[39] Sweden, by contrast, has adopted a more nuanced approach. Courts may acknowledge prompts as contributing to authorship where they demonstrate a discernible level of personal intellectual input that meaningfully

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[36] Vincenzo Iaia, "The Elephant in the Room of EU Copyright Originality: Time to Unpack and Harmonize the Essential Requirement of Copyright," The Journal of World Intellectual Property, December 25, 2024, jwip.12343, https://doi.org/10.1111/jwip.12343.

[37] Stefan Widmark et al., "Swedish Copyright Law: Overview" (Westerbergs & Partners, 2021), https://westerberg.com/wp-content/uploads/2021/03/012_SWEDEN.pdf.

[38] PRV, "Verkshöjd," PRV, August 6, 2024, https://www.prv.se/sv/kunskap-och-stod/vanliga-ord-och-begrepp/verkshojd/.

[39] Zaldy Salim Mhd. Hamid and Rianjani Rindu, "Reformasi Undang-Undang Hak Cipta: Tantangan Dan Peluang Era Kecerdasan Buatan," accessed September 8, 2024, https://lk2fhui.law.ui.ac.id/portfolio/reformasi-undang-undang-hak-cipta-tantangan-dan-peluang-era-kecerdasan-buatan/.

influences the final output in a non-trivial and original manner.[40] This reflects Sweden's more advanced alignment with evolving standards in AI-related copyright assessment.

Sweden appears more prepared to address emerging copyright issues through evolving jurisprudence and potential legislative updates, while Indonesia's statutory framework still lacks mechanisms to accommodate the rapid advancements in generative AI. These divergences raise critical implications for the future of copyright protection and the recognition of hybrid or AI-assisted creative processes.

The following table outlines the core differences between Indonesia and Sweden regarding originality requirements and their treatment of AI-generated illustrations:

**Table 3.1** Originality in Indonesian and Swedish Copyright Law

| Aspect | Indonesia | Sweden |
|---|---|---|
| **Author Requirement standard.** | Human (explicit) | Human (explicit, interpreted through EU law and CJEU jurisprudence) |
| **Legal Basis** | Copyright Act (UU No. 28/2014) Article 1(2-3) | Copyright Act (1960:729), Section 1; Directive 2001/29/EC Article 2(a); CJEU decisions (*Infopaq* C-5/08, *Painer* C-145/10) |
| **Originality** | Work must be the product of human intellect, characterised as personal, unique, and materially fixed [Art. 1(2)-(3)] | Work must be the result of the author's own intellectual creation, involving free and creative choices (CJEU jurisprudence) |

Both Indonesia and Sweden require that copyrightable illustrations originate from human creators. In Indonesia, Article 1(2) and (3) of Law No. 28 of 2014 defines a "creator" as an individual whose work reflects distinct personal expression and mandates that a protected work must be fixed in a tangible form. This framework excludes illustrations generated entirely by artificial intelligence (AI), as such outputs lack the requisite human intellectual effort. Although Indonesian law does not explicitly address AI-generated works, prevailing interpretation affirms that protection applies only to creations demonstrating human creativity and material embodiment.

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[40]   Matilda Nilsson, "PRV-juristen: Gå inte vilse i AI-djungeln," Sveriges Tidskrifter, accessed April 25, 2025, https://sverigestidskrifter.se/tjanster/guider-verktyg/stor-guide-sa-lyckas-du-med-dina-ai-bilder/prv-juristen-ga-inte-vilse-i-ai-djungeln/.

Sweden adheres to an anthropocentric standard consistent with Article 2(a) of Directive 2001/29/EC, as interpreted by the Court of Justice of the European Union (CJEU) in Infopaq (C-5/08) and Painer (C-145/10). A protected work must constitute the author's own intellectual creation, reflecting free and creative choices.[41] This standard incorporates both subjective and objective elements, requiring personal authorship and a perceptible form of expression.[42] Swedish courts have demonstrated judicial skepticism toward AI-generated outputs that lack substantive human involvement. While Sweden's jurisprudence reflects an evolving openness to future regulatory adaptation, Indonesia's copyright regime remains largely unresponsive to the legal implications of generative AI.

## 3.2. Status of Copyright Authorship in AI-Generated Illustrations: Comparative Analysis of Indonesia and Sweden

Copyright authorship in the context of artificial intelligence (AI)-generated illustrations presents unique legal and theoretical challenges. Traditionally, copyright law has been premised on the notion that protection arises from human intellectual labor and creative expression.[43] This distinction becomes increasingly blurred when illustrations are autonomously produced by AI systems, which lack personhood, consciousness, and the capacity for creative intent. Human-authored illustrations, created through individual or collaborative human effort, clearly satisfy legal requirements for authorship.[44] In contrast, machine-generated illustrations that result solely from algorithmic processes without substantial human input present a novel dilemma where they produce outputs that may resemble works of art but lack the requisite elements of personal authorship as recognized by copyright law.[45]

In Indonesia, Law No. 28 of 2014 concerning Copyright outlines a clear anthropocentric framework. Article 1(2) defines an author (pencipta) as a person or

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[41] Julien Cabay, "Going Deep: EU Copyright, Generative AI and the Competition Rationale Underlying Originality," *La Revue Des Juristes de Sciences Po* 2024, no. 25 (2024), https://orbi.uliege.be/handle/2268/322961.

[42] Cabay.

[43] Maya Ruhtiani, *Doktrin Fair Use Pada Hak Cipta*, 1st ed. (Semarang: Saraswati Nitisara, 2017).

[44] Kacper Szkalej, "Copyright Liability and Generative AI: What's the Way Forward?," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, January 10, 2025), https://papers.ssrn.com/abstract=5117603.

[45] Szkalej.

persons who individually or collectively produce a work that is unique and personal. This provision implies that only natural persons or legal entities operating through human direction qualify as copyright authors. AI, being a non-human and non-legal person, is not recognized as a legitimate author under this framework. Furthermore, Article 1(3) emphasizes that copyright protection is granted to works that are expressed in a tangible form, reinforcing the idea that human involvement is necessary for creation.

While there is no explicit prohibition against AI-generated content, the current statutory framework does not provide for copyright protection of works lacking human intellectual input. Some Indonesian legal scholars have suggested the possibility of interpretation through Article 34[46], which permits the transfer of authorship in a work-for-hire context. However, such interpretation remains debated, and no binding judicial decisions have affirmed this extension to fully autonomous AI-generated works.

Sweden's legal stance, governed by the Copyright Act (1960:729), similarly centers on the concept of human authorship. The act affirms that copyright arises in literary and artistic works that are original intellectual creations, implicitly requiring human agency.[47] Swedish courts and legal commentators have been skeptical about extending copyright to works generated solely by machines. The Swedish Patent and Registration Office (PRV) has confirmed that illustrations generated entirely by AI are not subject to copyright, as they lack the human creative input required to satisfy originality standards.[48] The jurisprudence of the Court of Justice of the European Union (CJEU), particularly in cases like Infopaq and Painer, further supports this approach, requiring that a protected work must express the intellectual creation of its author.[49] Although Sweden has not enacted specific legislative exceptions for AI-generated works, discussions continue about the applicability of related rights or sui generis protections for developers and users of

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[46]  Ryan Armandha Andri Anwar, "Menilik Status Kepemilikan Ciptaan yang Dibuat oleh Artificial Intelligence," hukumonline.com, August 5, 2023, https://www.hukumonline.com/berita/a/menilik-status-kepemilikan-ciptaan-yang-dibuat-oleh-artificial-intelligence-lt64ce33e741d98/.
[47]  Widmark et al., "Swedish Copyright Law: Overview."
[48]  PRV, "Copyright on AI Images."
[49]  Iaia, "The Elephant in the Room of EU Copyright Originality."

generative AI systems. A comparative overview of copyright authorship in AI-generated illustrations between Indonesia and Sweden is presented below:

**Table 3.2** Authorship in Indonesian and Swedish Copyright Law

| Aspect | Indonesia | Sweden |
|---|---|---|
| **Legal Subject Status** | Only humans or legal entities operating through human agency may hold authorship rights. | Only natural persons are recognized as authors under Section 1 of the Copyright Act (1960:729). |
| **AI** | Not recognized as an author under Copyright Law. | Not eligible for authorship; PRV states AI-generated works are ineligible for copyright. |
| **Rights Allocation** | Possible through interpretation of Article 34 on work-for-hire by a human employer. | Rights may vest in the human directing AI, or the result may fall under contractual licensing. |

Both jurisdictions reaffirm that full copyright protection applies only where human creativity is evident. While Indonesia has yet to engage in detailed legislative reform on this issue, Sweden has begun exploring alternative solutions such as licensing frameworks or neighboring rights. These discussions reflect broader international concerns about adapting copyright law to technological advancements while preserving its foundational principles.

## 3.3. Copyright Frameworks for AI-Generated Illustrations in Indonesia and Sweden

The increasing use of artificial intelligence (AI) systems in the creation of illustrative works necessitates a critical examination of the existing copyright frameworks in different jurisdictions. Indonesia and Sweden, despite sharing a fundamental anthropocentric approach to authorship, diverge significantly in regulatory sophistication and legal adaptation to AI-generated content.

In Indonesia, copyright protection is governed by Law No. 28 of 2014 on Copyright, which adheres to the Berne Convention. The statute explicitly recognizes only natural persons as authors, thereby excluding AI as a legal subject capable of authorship.[50] The prevailing doctrine is rooted in the work made for hire principle under Article 34, which permits the transfer of economic rights to employers while retaining the concept of human

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[50]    "Berne Convention for the Protection of Literary and Artistic Works," n.d.

authorship. However, the current law does not provide any guidance or recognition concerning AI-generated works. This omission has created a legal vacuum that fosters uncertainty over the status, authorship, and protectability of illustrations generated autonomously or semi-autonomously by AI systems.

Sweden, by contrast, operates within a harmonized European Union (EU) legal environment. The Swedish Copyright Act (Lag 1960:729) has undergone multiple amendments, most recently in 2024, to remain aligned with evolving EU standards. Swedish courts are obligated to interpret national copyright laws in conformity with the jurisprudence of the Court of Justice of the European Union (CJEU), as established in Costa v ENEL (Case 6/64) and reinforced through the doctrine of interpretation conforme.[51] Although the Swedish statute does not explicitly define the concept of originality, courts rely on CJEU precedents such as Infopaq International (C-5/08) and Painer (C-145/10), which stipulate that a work must reflect the author's own intellectual creation to qualify for protection.[52]

Both jurisdictions exclude AI as an independent rights-holder. In Sweden, this exclusion is reinforced by case law and academic interpretation that require human intellectual input for a work to be eligible for copyright.[53] The SOU 1985:51 explicitly describes AI as a sophisticated tool rather than a creative agent, thereby excluding fully machine-generated works from copyright eligibility.[54] Human intervention must go beyond passive selection to constitute a causal, creative contribution. The standard demands substantive intellectual decisions by a human in the design and execution of the illustration, aligning with the CJEU's human-centric originality threshold.

Sweden's alignment with the AI Act (Regulation 2024/1689) further strengthens the country's legal response to generative AI. Although the AI Act does not regulate copyright directly, it imposes obligations on general-purpose AI (GPAI) developers,

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[51]  Judgment of the Court of 15 July 1964 – Flaminio Costa v E.N.E.L., European Court Reports (ECR) (European Court of Justice 1964).

[52]  Iaia, "The Elephant in the Room of EU Copyright Originality."

[53] Alice    Hanfelt,    "AI    and    Copyright    Law"    (2024),    https://lup.lub.lu.se/student-papers/record/9158407/file/9158414.pdf.

[54] "Statens    Offentliga    Utredningar    (SOU)"    (Government    of    Sweden,    Oktober    1985), https://lagen.nu/sou/1985:51?attachment=index.pdf&repo=soukb&dir=downloaded.

including the documentation of training data used during model development.[55] This transparency requirement intersects meaningfully with copyright law, particularly when the training data includes copyrighted illustrations. Additionally, the Directive on Copyright in the Digital Single Market (CDSMD), especially Articles 3 and 4, regulates text and data mining (TDM) practices relevant to AI training. It permits non-commercial TDM by cultural and research institutions without prior authorization, while allowing commercial TDM only in the absence of an opt-out by rightsholders.[56]

Indonesia currently lacks a parallel regulatory mechanism. Institutions such as KORIKA (Kolaborasi Riset dan Inovasi Industri Kecerdasan Artifisial), though tasked with coordinating AI development[57], have not engaged meaningfully in legal discourse on content authorship or copyright regulation for AI-generated illustrations. Unlike AI Sweden, which participates actively in international collaborations and contributes to legal standard-setting[58], KORIKA's involvement remains domestic and largely technical.

Authorship issues in both jurisdictions default to the person who exerts creative control over the final output. In Sweden, this may extend through contractual arrangements to AI developers or software providers when their contributions shape the final artistic form. The possibility of joint authorship exists if multiple human contributors cannot be distinguished; however, AI cannot be a party to such arrangements.[59] In Indonesia, such scenarios lack clear legal guidance, which poses risks of opportunistic claims and unauthorized rights assertion over AI-generated content.

The differences between the Indonesian and Swedish frameworks reflect varying degrees of preparedness in addressing AI's impact on copyright law. While both jurisdictions maintain the principle that only humans can be authors, Sweden has undertaken legislative and interpretive steps to integrate AI-related concerns into its copyright system. Indonesia's absence of statutory or regulatory development in this

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[55] João Pedro Quintais, "Generative AI, Copyright and the AI Act," *Computer Law & Security Review* 56 (April 2025): 106107, https://doi.org/10.1016/j.clsr.2025.106107.
[56] Quintais.
[57] KORIKA, "Tentang KORIKA," KORIKA, accessed June 1, 2025, https://korika.id/about/.
[58] AI Sweden, "About AI Sweden," accessed October 29, 2024, https://www.ai.se/en/about.
[59] Hanfelt, "AI and Copyright Law."

domain suggests an urgent need for legal reform. A future-proof framework should include provisions addressing human-AI collaboration, transparency in AI training datasets, and mechanisms for assigning authorship where creative input is distributed across technical and creative contributors. To illustrate the key normative and institutional differences between Indonesia and Sweden in regulating copyright protection for AI-assisted illustrations, a comparative summary is presented in the table below.

**Table 3.3** Copyright Framework in Indonesia and Sweden

| Aspect | Indonesia | Sweden |
|---|---|---|
| **Legislation** | Copyright Law No. 28/2014 (Berne-based), unamended. | Copyright Act (1960:729), amended in 2024. |
| **Authorship** | Human. | Human. |
| **AI-Generated Works** | Unregulated. | Excluded from protection under CJEU standards. |
| **Ownership Model** | Work Made for Hire (Art. 34); economic rights to employer, authorship remains with human. | British Model + Related Rights; contractual rights allocation to developers and investors. |
| **International Alignment** | No substantive alignment. Limited t o Berne Convention. | Integrated with EU AI Act (2024) and Convention on AI (2026). |
| **Interpretive Guidance** | Absent. | SOU 1985:51 as reference for new technologies. |

The table above outlines key differences between Indonesian and Swedish copyright frameworks in regulating AI-assisted illustrations. Indonesia, through Law No. 28 of 2014, maintains a traditional approach that limits authorship to natural persons and lacks regulation or interpretive tools concerning AI-generated works.

Indonesia's regulatory approach remains anchored in Law No. 28 of 2014, which, while aligned with the Berne Convention, has not undergone substantive revision to address emerging technological realities. The existing legal framework does not provide recognition or classification for AI-generated works, and no official guidance or interpretive instrument has been issued to resolve the normative gaps associated with automated creative processes. The ownership structure is governed by the work made for hire doctrine as stipulated in Article 34, under which economic rights may be transferred to an employer, yet authorship remains strictly limited to human agents. This legal

rigidity, compounded by the absence of harmonization efforts or policy developments, reflects a formalist orientation that limits Indonesia's regulatory responsiveness.

Sweden, by contrast, demonstrates a more progressive and institutionally coherent legal posture. The Swedish Copyright Act, most recently amended in 2024, incorporates contemporary legal standards shaped by the jurisprudence of the Court of Justice of the European Union (CJEU), which excludes AI-generated works from copyright protection on the basis of lacking human intellectual input. Furthermore, Sweden adopts a hybrid rights allocation model combining the British contractual approach with elements of related rights, thereby enabling a more nuanced recognition of economic interests held by AI developers and investors. The integration of the EU AI Act (2024) and the anticipated full implementation of the Convention on AI in 2026 further signal Sweden's alignment with supranational regulatory developments. The availability of interpretive resources, notably SOU 1985:51, reinforces the system's capacity to adapt copyright law to novel technological contexts.

## CONCLUSION AND SUGGESTION

Indonesia and Sweden both require human intellectual input to meet the originality threshold for copyright protection, with Indonesia emphasizing "personal, distinctive thought" and Sweden applying the CJEU's "author's own intellectual creation" standard. AI-generated illustrations lacking substantial human contribution are not eligible for protection in either jurisdiction. Authorship is limited to natural persons, with Indonesia applying the work made for hire doctrine and Sweden allowing limited rights through neighboring rights to human contributors in AI-assisted processes. Indonesia lacks explicit regulation on AI-generated works, while Sweden has adopted EU instruments, including Directive 2001/29/EC and the 2024 AI Act, to address AI-related risks and ensure transparency. These differences reflect Sweden's proactive legal adaptation and Indonesia's reliance on traditional interpretation. Both systems require legislative reform to address authorship, originality, and authorship in AI-generated illustrations, ensuring clarity and legal certainty in the evolving creative landscape.

Clear regulation of AI-generated illustrations is essential to ensure legal certainty and ethical use. The Copyright Act should be amended to define the minimum standard of human creative input such as meaningful decisions in composition, stylistic choices, or content direction as a prerequisite for protection. AI-assisted illustrations that meet this threshold may qualify for copyright, while outputs lacking sufficient human authorship should be excluded from protection and redirected either into a newly created category of related rights or explicitly placed in the public domain. Implementing regulations should specify the technical and legal criteria for assessing human involvement in AI-generated illustrative works.

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