

## Beijing Internet Court Recognizes Copyright in AI-Generated Images

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On November 27, 2023 the Beijing Internet Court issued a decision recognizing copyright in AI-generated images. The plaintiff, Mr. Li, used Stable Diffusion (an artificial intelligence) to generate the image involved in the case and published it on the Xiaohongshu platform; the defendant, a blogger on Baijiahao, used the image generated by the plaintiff's AI to accompany the article, and the plaintiff sued. The Court held that the artificial intelligence-generated image involved in the case met the requirements of "originality" and reflected a human's original intellectual investment and should be recognized as works and protected by copyright law. This is the opposite of the decision reached by the U.S. Copyright Office in **Zarya of the Dawn (Registration # VAu001480196)** that did not recognize copyright in AI-generated images. Note this Beijing case is also different from the recent **Thaler v. Perlmutter decision** (Civil Action No. 22-1564 (BAH)) because Thaler was trying to recognize the AI as the author and not the person using the AI as a tool as author.





(图 4)



(图 5)



(图 6)

*Images Generated by the Plaintiff Using AI*

On February 24, 2023, the plaintiff used the AI software Stable Diffusion to

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generate the images involved in the case by inputting prompt words, and then published the pictures on the Xiaohongshu platform under the name “Spring Breeze Brings Tenderness”. Recently, the plaintiff discovered that the Baijiahao account “I am Yunkai Sunrise” published an article titled “Love in March, in the Peach Blossom” on March 2, 2023. The article used the images involved in the case. The plaintiff sued claiming that the defendant did not obtain the plaintiff’s permission and cut off the plaintiff’s signature watermark on the Xiaohongshu platform, causing relevant users to mistakenly believe that the defendant was the author of the work, which seriously violated the plaintiff’s right of attribution and information network dissemination rights.

The Court stated that from the time the plaintiff conceived the image involved in the case to the final selection of the image involved, the plaintiff made a certain amount of intellectual investment, such as designing the presentation of characters, selecting prompt words, arranging the order of prompt words, and setting relevant parameters and so on. The images involved in the case reflected the plaintiff’s intellectual investment, so the images involved in the case met the requirements of “intellectual achievements.”

Further, the plaintiff designed the image elements such as the characters and their presentation through prompt words, and set the image layout and composition through parameters, which reflected the plaintiff’s choice and arrangement. On the other hand, after the plaintiff obtained the first picture by inputting prompt words and setting relevant parameters, he continued to add prompt words, modify parameters, continuously adjust and modify, and finally obtained the image involved. This adjustment and modification process also reflects the plaintiff’s aesthetic choices and personal judgments. During the trial, it was found that the plaintiff generated different images by changing individual prompt words or changing individual parameters. The pictures involved were not just “mechanical intellectual achievements.” In the absence of contrary evidence, it can be concluded that the images involved in the case were independently completed by the plaintiff and reflected the plaintiff’s personalized expression. In summary, the images involved in the case meet the requirements of “originality.”

In addition, the plaintiff is the one who directly set up the artificial intelligence model involved in the case as needed and selected the images involved in the case. The images involved in the case were directly generated based on the plaintiff's intellectual investment and reflected the plaintiff's personalized expression. Therefore, the plaintiff is the owner of the images involved in the case and owns the copyright of the images involved.

The Court awarded 500 RMB to the plaintiff in damages and costs of 50 RMB.

The full decision courtesy of ??? is available [here](#) (Chinese only).

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National Law Review, Volumess XIII, Number 333

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