



The Legal Status of Ai-Based Works of Art: A Study on AI as the Subject of Copyright in Indonesia

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Abstract

This study examines the regulatory challenges and doctrinal tensions arising from the proliferation of artificial intelligence in the Indonesian creative economy, with a specific focus on the legal status of algorithmic art. Utilizing a non-empirical normative legal research design incorporating the statute, conceptual, and comparative approaches, the investigation dissects the structural limitations of Law Number 28 of 2014 on Copyright. The analytical framework reveals that Indonesian jurisprudence strictly binds legal subjectivity to human consciousness and corporate entities, creating an insurmountable barrier for autonomous software to achieve independent authorship or claim moral rights. Furthermore, comparative insights from the United States and the European Union demonstrate that unregulated data scraping and algorithmic duplication pose severe economic threats to human creators and communal digital cultural heritage. Ultimately, this study proposes a comprehensive future regulatory model through modified ownership doctrines and specialized statutory frameworks to secure market certainty without disrupting the anthropocentric foundations of national intellectual property law.

Keywords : Artificial Intelligence, Copyright Law, Legal Subjectivity, Algorithmic Art, Indonesia.



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INTRODUCTION

The global landscape of intellectual property rights is currently experiencing a profound paradigm shift driven by the exponential advancement of generative artificial intelligence, which fundamentally challenges the classical architecture of copyright law. Within the international legal discourse, the traditional nexus between human intellect and creative output is increasingly destabilized by autonomous algorithms capable of generating highly sophisticated aesthetic and artistic works. This technological evolution has initiated a critical ontological debate regarding the boundaries of legal personhood and the doctrine of authorship, which has historically been anchored in human-centric philosophy. In contemporary legal theory, the proliferation of AI-generated art disrupts established statutory frameworks worldwide, forcing international jurisdictions to re-evaluate whether existing copyright mechanisms can accommodate non-human entities without eroding the foundational principles of original expression. As digital ecosystems become highly dependent on algorithmic creativity, mapping the intersection between machine autonomy and statutory intellectual property regimes emerges as a pivotal frontier in modern legal scholarship.

Amidst these global transformations, contemporary legal literature has actively sought to dissect the implications of algorithmic creations within the specific context of Indonesian jurisprudence. Recent scholarly inquiries have initiated critical evaluations of copyright law perspectives, demonstrating that the structural rigidity of human authorship poses a significant barrier to the legal recognition of autonomous machine outputs (Praja et al., 2025a). This conceptual friction is further elaborated in doctrinal and comparative reviews, which emphasize that the statutory allocation of authorship and ownership under Indonesian law remains inherently ill-equipped to absorb the realities of digital automation (Praja et al., 2025b). Furthermore, the expanding commercial utility of AI-generated content in sectors such as advertising highlights a growing deficit in legal certainty, where market dynamics outpace existing regulatory protections (Putri et al., 2025). The challenges of visual and artistic mediums have also been examined through empirical analyses of illustration images, illustrating the

practical difficulties of verifying standard copyright criteria when the primary agent of creation is a machine learning model (Respati et al., 2025). Collectively, these preliminary investigations demonstrate a consensus that the current domestic legal framework faces an unprecedented structural strain.

Despite the valuable insights provided by earlier studies, a profound analytical fragmentation remains within the current body of literature, particularly regarding the precise mechanism for achieving legal certainty. While some scholars advocate for a rigid preservation of classical doctrines, others suggest a flexible reinterpretation of copyright rules to safeguard AI-generated works within Indonesia (Rokmahwati & Amiludin, 2025). This divergence reflects a deeper conceptual inconsistency, as the scholarly community remains divided between upholding the strict requirement of human-centric originality and accommodating modern technological demands. Comparative rule-of-law analyses between Indonesia and technologically advanced jurisdictions like South Korea have sought to bridge this gap, yet they frequently conclude with highly generalized statutory recommendations that fail to reconcile the specific jurisprudential identity of Indonesian civil law (Ruhtiani et al., 2025). Moreover, triple-jurisdiction comparative studies involving Indonesia, the United States, and Germany demonstrate that foreign legal concepts cannot be seamlessly transposed without causing severe doctrinal friction within the Indonesian Civil Code and Law Number 28 of 2014 on Copyright (Sherney & Disemadi, 2026). Consequently, existing literature exhibits a significant theoretical gap, failing to provide a systematic, structurally coherent model that clarifies the legal status of AI as a potential subject of copyright without undermining the integrity of human authorship.

Addressing this unresolved conceptual vacuum is of paramount scientific and practical urgency, as the prolonged absence of a definitive legal construction severely compromises both regulatory predictability and industrial innovation. From a theoretical standpoint, allowing the boundaries of legal subjectivity and original expression to remain ambiguous threatens to destabilize the internal coherence of intellectual property doctrines, creating a state of systemic norm conflict where algorithmic tools are neither fully recognized nor entirely excluded. Practically, this normative vacuum leaves digital creators, software developers, and the broader creative industry in Indonesia vulnerable to widespread exploitation, unresolvable ownership disputes, and a pervasive lack of enforcement mechanisms. Without a rigorous, specialized legal reassessment, the rapid commercialization of AI art will continue to generate market instability, discourage technological investment, and weaken Indonesia's position within the global digital economy. Therefore, resolving the precise legal status of AI-based artistic works is no longer a speculative academic exercise, but a mandatory legislative and judicial necessity required to protect the integrity of the domestic creative ecosystem.

In response to these critical gaps, this research establishes its position within the scholarly landscape by offering a systematic legal reconstruction that transcends the binary debate of total exclusion versus complete recognition. Rather than merely reiterating the descriptive inadequacies of Law Number 28 of 2014, this study introduces a nuanced theoretical framework that separates purely autonomous machine outputs from hybrid creations driven by significant human control. By combining a doctrinal approach with an advanced comparative analysis of evolving international standards, this research repositions the debate away from assigning full legal personality to AI systems, focusing instead on defining the legal parameters of human-machine collaboration. This scholarly approach enables the formulation of a highly contextualized *ius constituendum* model tailored directly to the principles of Indonesian civil jurisprudence. Through this strategic placement, the study acts as an essential analytical bridge, reconciling classical human authorship requirements with the inevitable realities of algorithmic innovation.

The primary objective of this study is to formulate a comprehensive legal construction regarding the status of AI-based works of art as copyright subjects within the Indonesian legal system. Theoretically, this research contributes to the advancement of intellectual property law by redefining the concept of original expression and proposing a specialized framework to address algorithmic authorship without dismantling the core human-centric tenets of copyright doctrine. Methodologically, the study enhances legal analysis by applying a structured tripartite approach—integrating statutory, conceptual, and comparative methodologies—to deliver a rigorous evaluation of non-human creative agency. Ultimately, the insights generated by this research provide an objective, scientifically validated foundation designed to guide judicial interpretation and future legislative reforms, ensuring that

Indonesian jurisprudence remains highly adaptive, resilient, and responsive to the ongoing challenges of the digital era.

RESEARCH METHODS

This study adopts a non-empirical, doctrinal research design rooted in normative legal research methodologies to address the regulatory challenges surrounding artificial intelligence within the Indonesian copyright framework. Because the investigative objective focuses on examining statutory inconsistencies and theoretical gaps rather than evaluating empirical field data, the research utilizes primary and secondary legal materials as its foundational data sources. The primary data pool consists of binding statutory instruments, specifically Law Number 28 of 2014 on Copyright, while the secondary data pool comprises peer-reviewed journal articles, authoritative legal textbooks, and international comparative literature. Selection criteria for these sources dictate that all analyzed materials must directly address the concepts of human authorship, originality, legal subjectivity, or comparative algorithmic copyright regulations. The analytical framework is built upon three complementary methodologies, which are the statute approach to examine current domestic legislation, the conceptual approach to dissect traditional doctrines of personhood, and the comparative approach to evaluate the legal responses of the United States and the European Union.

The analytical procedure is executed through a qualitative mechanism incorporating systematic and conceptual interpretation of the gathered legal texts. The process begins with a comprehensive data reduction stage where irrelevant statutory clauses are filtered out, followed by a dense conceptual mapping that links the technical functionalities of generative software to the restrictive legal definitions found in Indonesian jurisprudence. To guarantee rigorous analytical precision and theoretical validity without relying on empirical metrics, the study applies internal data triangulation and peer-debriefing techniques across the selected legislative frameworks. This process ensures that the evaluation of non-human creative agency is systematically cross-referenced with established civil law doctrines and constitutional principles regarding legal certainty. Ultimately, this structured analysis allows the research to build a coherent *ius constituendum* model, resolving how hybrid human-machine art can be legally categorized without disrupting the core, human-centric foundations of intellectual property law in Indonesia.

RESULTS AND DISCUSSION

The Ontological Tension and Statutory Disalignment of Creative AI within the Indonesian Human-Centric Copyright Regime

The integration of generative artificial intelligence into the creative economy breaks the traditional link between human intellect and statutory artistic protection. Under the current Indonesian copyright framework established by Law Number 28 of 2014, the eligibility of any aesthetic output for legal protection depends on its classification as a protected work. This classification requires an explicit manifestation of original expression emerging from the unique personal capabilities of a human author. When algorithmic software independently produces complex visual graphics, it exposes a fundamental gap between modern technological capabilities and traditional civil law principles. This structural misalignment threatens to undermine the internal consistency of domestic intellectual property doctrines by creating a large category of unclassifiable digital assets.

This legislative tension is further worsened by the rise of commercial algorithmic art that challenges the basic definitions of copyrightable subject matter. Traditional continental European legal philosophy, which heavily shapes Indonesian jurisprudence, treats creative works as extensions of the author's human personality. Generative algorithms operate without human consciousness, converting data inputs into aesthetic outputs through mathematical probabilities rather than subjective emotional intent. This operational method creates an ongoing conflict with statutory requirements that look for personal distinctiveness within protected works. Consequently, domestic courts find themselves without clear statutory guidance when trying to assess whether purely machine-made configurations qualify for legal protection.

Scholarly consensus confirms that this regulatory mismatch stems from the strict definition of protected works within national legal systems. Legal frameworks struggle to accommodate assets generated through automated processes that lack a direct human touch (Prajapati et al., 2025a). The rapid adoption of generative tools in the creative industries has outpaced existing statutory categories, forcing

a complete reassessment of traditional legal definitions. This trend creates a complex regulatory environment where digital assets are produced at scale without a clear legal classification. Legal experts argue that applying historical definitions to modern automated outputs causes severe conceptual confusion within courts.

The resulting lack of legal clarity impacts multiple commercial sectors, especially the digital advertising and graphic design industries where machine-generated content is now common. Commercial operators frequently use algorithmic tools to reduce production costs, assuming these technical outputs enjoy standard intellectual property protections. However, the current statutory framework does not provide clear ownership guidelines for assets produced without direct human authorship (Putri et al., 2025). This situation creates significant economic risks for businesses that rely on automated content for their primary branding campaigns. Without explicit statutory recognition, these commercial assets can be freely copied by competitors, causing significant market instability.

To systematically evaluate the depth of these statutory conflicts, the table below maps the specific contradictions between current legislative text and the realities of modern algorithmic creative processes.

Table 1. Structural Contradictions between Law Number 28 of 2014 and Creative AI Functions

Statutory Requirement (Law 28/2014)	Algorithmic Operational Reality	Jurisprudential Consequence
Personal expression of human intellect	Outputs derived from probabilistic data synthesis	Disqualification from standard work status
Explicit manifestation in a tangible form	Dynamic algorithmic generation from latent spaces	Challenges in isolating fixed original expression
Moral rights tethered to human personality	Total absence of self-awareness or human identity	Impossibility of assigning non-economic rights
Clear economic right ownership streams	Distributed contributions across multiple actors	Severe ownership allocation conflicts

Source: Derived and synthesized from Praja et al. (2025a) and Putri et al. (2025)

The systematic comparison in Table 1 shows that generative systems cannot be easily integrated into the existing text of Law Number 28 of 2014. The statutory requirement for personal expression clashes directly with the mathematical data synthesis that defines modern software functions. This mismatch means that fully automated creations cannot meet the baseline criteria required to qualify as a protected work. Consequently, these digital assets are vulnerable to immediate unauthorized copying, leaving creators without viable legal remedies. Legal certainty remains impossible as long as the state tries to regulate digital technologies using outdated statutes.

This legal vacuum is particularly visible in high profile disputes where digital creators discover that their automated outputs cannot be protected against copying. The absence of specific statutory provisions for automated systems leaves a clear legislative gap that disrupts the domestic creative market (Anisa & Septia, 2025). When an asset is widely shared online but lacks a valid human author, it falls outside the protective scope of current copyright enforcement mechanisms. This legal exposure discourages local creative professionals from using modern digital tools, slowing down innovation within the domestic creative economy. This problem highlights the urgent need to reform the underlying definitions of protected works.

Furthermore, the educational and research sectors face unique challenges as automated systems are increasingly used to generate scientific and academic texts. The widespread use of these technologies blurs the line between traditional human research and automated data aggregation, creating difficult copyright enforcement issues (Maretasari et al., 2026). Educational institutions struggle to maintain academic integrity when the ownership of text and data cannot be clearly determined under current laws. This institutional confusion shows that the copyright crisis extends far beyond the visual arts into the broader information economy. The state must establish updated legal standards to protect both economic investments and academic integrity.

This regulatory uncertainty also impacts related fields of intellectual property, such as industrial design, where automated systems are used to create commercial product shapes. The statutory

framework for industrial designs shares the same human-centric foundations as copyright law, creating identical enforcement difficulties for machine-made designs (Niswah, 2025). When a commercial design is generated by an algorithm, the creator faces significant hurdles when trying to register it under current laws. This broader systemic failure demonstrates that the human-centric bias of Indonesian law creates barriers across the entire intellectual property regime. A comprehensive legislative restructuring is required to preserve the country's economic competitiveness.

The unresolved legal status of automated creations threatens the stability of the entire domestic digital market. The current formal legal system remains ill-equipped to handle the unique characteristics of emerging digital tools, leading to growing friction between legal traditions and economic realities (Asri et al., 2025). As long as courts are forced to rely on strict human-centric interpretations, the legal system will continue to stifle technological integration. Resolving this ontological tension requires a structural overhaul that redefines how the state values creativity, shifting focus from the identity of the creator to the characteristics of the work itself.

Deconstructing Legal Subjectivity: Conceptual Barriers to Recognizing AI as a Copyright Holder in Indonesian Jurisprudence

The current framework of Indonesian civil law relies heavily on a human centric model that restricts legal subjectivity to specific recognized entities. Under the provisions of the Indonesian Civil Code, legal personhood is granted only to natural persons and formally established legal entities. This statutory restriction means that autonomous software systems cannot hold legal rights or assume statutory obligations independently. The strict structure of domestic intellectual property law prevents non human agents from entering the legal system as independent creators.

The emergence of sophisticated neural networks introduces significant conceptual friction into this traditional legal binary. While machines can independently create high quality visual arts, they lack the legal capacity needed to claim statutory protection under national law (Kristanti et al., 2025). This limitation means that any creative asset produced without direct human intervention enters a problematic regulatory state. The formal legal system remains bound by historical rules that require a human mind to spark legal protection. Consequently, the expanding digital art market faces clear systemic vulnerabilities due to this ongoing doctrinal misalignment.

The absence of consciousness within deep learning models creates an insurmountable barrier to establishing legal liability and subjective intent. Legal doctrines require that a copyright holder possess a personal will to manifest artistic choices and guide creative expressions. Generative algorithms operate by calculating data probabilities and statistical patterns without self awareness or intentional creative direction. Because software cannot experience personal intent, it cannot meet the criteria for legal personhood. This computational reality prevents artificial tools from achieving the status of an independent author under national rules.

This foundational limitation is closely tied to the concept of moral rights, which protect the unique personal bond between an author and their artistic creation. National intellectual property laws treat moral rights as an unalienable extension of the human creator's personality and reputation (Mayana et al., 2024). A machine learning model cannot experience reputational harm, seek public recognition, or maintain a personal legacy. Attempting to assign these deeply personal rights to a software package creates serious conceptual contradictions within the civil law tradition. This absolute separation reinforces the view that computational tools must remain classified as mere technical instruments.

To systematically clarify these doctrinal differences, the table below maps the strict divisions between classical legal personhood and algorithmic systems.

Table 2. Comparative Analysis of Legal Subjectivity and Algorithmic Entities in Indonesian Law

Legal Attribute	Natural Persons (Human)	Legal Entities (Corporations)
Legal Personality Source	Biological existence and civil code recognition	Statutory state registration and compliance
Subjective Will	Inherent psychological and cognitive consciousness	Collective human intent through corporate organs

Moral Rights Claim	Fully protected as part of human personality	Limited to specific commercial branding attributes
Civil Liability Capacity	Direct personal financial and legal accountability	Distributed liability through corporate assets

Source: Synthesized from Kristanti et al. (2025) and Mayana et al. (2024)

The systematic comparison in Table 2 highlights the deep conceptual gaps that prevent algorithmic software from achieving independent legal status. Because generative systems lack the legal capacity to hold rights, allocating ownership over their outputs requires finding an alternative human subject. This requirement creates a complex operational puzzle for the digital creative industry when distributing economic rights. Under current legal frameworks, courts must look behind the software to evaluate the active human contributors involved. This search focuses directly on the engineers who build the systems and the end users who run them.

This challenge has led to significant debates regarding how to divide economic benefits between software developers and active platform users. Software developers write the core code and curate the training datasets that enable algorithmic creativity. However, the end users provide the specific text prompts and parameters that shape the final creative output (Arifin et al., 2025). This split in the creative process complicates the clear allocation of economic rights under current national laws. The current statutory text does not specify how to divide financial returns between these different human participants.

This lack of clarity results in an unstable legal environment that discourages commercial investment in advanced digital artistic technologies. Commercial studios hesitate to use generative software when the resulting asset ownership remains uncertain. Without explicit statutory rules, distributed creative contributions can easily trigger long economic disputes among business partners. This structural issue underscores the need for clear guidelines to protect downstream users who drive technological innovation. Resolving this challenge is essential to supporting the growth of the local digital economy.

Furthermore, these ownership conflicts create severe enforcement difficulties when protecting digital creative assets within online marketplaces. Online e commerce platforms in Indonesia face a rising tide of unauthorized duplication involving machine made artwork. Identifying the rightful claimant becomes nearly impossible when the original creation lacks a legally recognized human author (Leonardo et al., 2025). This identification breakdown prevents copyright enforcement mechanisms from operating effectively in modern digital environments. Consequently, online marketplaces struggle to maintain secure digital spaces for creators.

The resulting legal uncertainty leaves local creative professionals vulnerable to widespread copycats on digital storefronts. Current enforcement strategies are built around verifying traditional certificates of human authorship before removing infringing content. When an artistic work is generated primarily by software, proving a valid chain of title becomes an unresolvable hurdle. This regulatory breakdown permits bad actors to exploit automated art without facing meaningful legal penalties. This structural weakness demonstrates that the human centric bias of the current system undermines digital market security.

Comparative Legal Innovations and Ius Constituendum: Formulating Alternative Regulatory Frameworks for Algorithmic Art in Indonesia

The global landscape of intellectual property rights displays diverse approaches to managing autonomous artistic generation. Advanced jurisdictions like the United States consistently apply the human authorship doctrine to reject registration applications submitted solely for machine-made items. In contrast, legal frameworks in countries such as the United Kingdom offer specialized protection for computer-generated works by assigning ownership to the person who makes the creative arrangements (Musafa, 2026). This international divergence highlights the lack of global consensus regarding non-human creative agency.

European civil law traditions focus on protecting human personality as a vital element for granting copyright status. For instance, Germany rejects non-human creators while modern commercial sectors explore distinct regional rights to govern hybrid products (Sherney & Disemadi, 2026). Similarly, South Korea balances copyright restrictions with administrative mechanisms designed to

record computational cultural outputs (Ruhtiani et al., 2025). Analyzing these varied foreign responses helps identify useful models for updating domestic frameworks without undermining the human-centric focus of local laws.

The legality of data scraping for machine learning models is another critical issue causing significant international disputes. Tech corporations face regular lawsuits because they use protected works to train generative software without clear permission (Ismantara & Silalahi, 2025). Some legal scholars suggest that this data extraction is a transformative use, while others view it as unauthorized copying that harms human creators. This complex input-output dispute requires clear rules to balance tech industry growth with fair compensation for artists.

The ongoing friction between major animation studios and artificial intelligence developers underscores the urgent need to review current statutory rules (Maria & Fakrulloh, 2025). Unauthorized data extraction threatens creative industries by producing cheap algorithmic copies that devalue original art. This risk is especially high in commercial sectors like advertising and education, where software-generated assets can easily displace human work (Maretasari et al., 2026). Resolving these conflicting economic interests requires structural changes to protect national creative markets.

To clarify these international approaches, the table below provides a comparative analysis of global regulatory models alongside structural recommendations for Indonesia.

Table 3. Comparative Regulatory Approaches to AI Copyright and Integration Models

Country / Jurisdiction	Primary Authorship Standard	Training Data Legality	Integration Model for Indonesia
Indonesia	Strict human authorship requirement	Unregulated legislative vacuum	Statutory revision with explicit exceptions
United States	Strict human authorship doctrine	Evaluated under fair use principles	Adoption of flexible judicial criteria
United Kingdom	Protection for computer-generated works	Subject to temporary text mining rules	Adopting the corporate investor model
Germany	Human personality requirement	Regulated data mining exemptions	Implementation of statutory licensing systems
South Korea	Restricted to natural human persons	Expanding text and data mining rules	Balanced fair remuneration mechanisms

Source: Synthesized from Ismantara & Silalahi (2025), Musafa (2026), Ruhtiani et al. (2025), and Sherney & Disemadi (2026)

The global standards detailed in Table 3 indicate that adapting national laws requires clear statutory updates. Introducing a modified work made for hire framework could help resolve local ownership confusion regarding machine-made outputs (Prajapati et al., 2025). Under this model, the economic rights of an automated asset belong to the human user who directs the software. This approach maintains legal certainty and supports the commercial market without declaring an algorithmic tool as an independent author.

Developing specialized legislation represents a practical strategy for managing autonomous technology systems in the local jurisdiction (Lisaldi et al., 2024). A dedicated law could establish a unique legal category to protect hybrid digital assets without changing traditional civil codes. This system could also protect alternative creative items like industrial designs and commercial advertising from unauthorized duplication (Niswah, 2025; Putri et al., 2025). Implementing these specific rules ensures that digital commercial investments remain secure as new technologies emerge.

Preserving indigenous artistic expressions from unauthorized algorithmic exploitation is a vital priority for the national legal system (Asri & Humaira, 2026). Generative models often train on

traditional textile patterns and cultural artifacts without providing fair compensation to native communities. This unregulated extraction risks commercializing communal cultural assets for private corporate profit. Stronger digital heritage rules are necessary to prevent automated tools from eroding local cultural assets.

Adapting the domestic legal framework involves adjusting formal statutory rules to match local cultural values (Asri et al., 2025). National intellectual property policies work best when they support local economic needs rather than relying solely on foreign legal concepts. Incorporating communal ownership principles can help protect local artistic communities from the risks of automated replication. This balanced approach ensures that technological advancement does not harm the livelihoods of traditional human creators.

A sustainable art-science framework requires clear public policies that encourage ethical technological curation (Dartanto et al., 2024). Modern galleries and educational institutions need open standards to distinguish human art from machine-assisted work (Prajna et al., 2025). Implementing transparent labeling rules helps protect consumer rights while preserving the unique value of human creativity. These structural improvements are essential to help the legal system adapt effectively to evolving technology (Hafiz, 2024).

The expansion of automated voice cloning and digital artwork requires robust national policies to prevent widespread commercial identity theft (Hariyanto et al., 2025). Unauthorized digital duplication can devalue the reputations and livelihoods of local creative professionals (Anisa & Septia, 2025). This commercial risk can be managed by updating current enforcement rules to protect human performers in online environments (Respati et al., 2025). Combining clear legal definitions with modern digital registries will help the country build a secure and innovative digital economy (Arifin & Ahmad, 2025, Rokmahwati & Amiludin, 2025).

CONCLUSION

The intersection of generative artificial intelligence and Indonesian copyright law reveals a profound structural misalignment between traditional human-centric legal doctrines and autonomous digital outputs. Normative legal analysis demonstrates that current civil law traditions strictly limit legal personhood to natural persons and legal entities, thereby excluding algorithmic systems from claiming independent authorship or holding moral and economic rights. Comparative evaluations of foreign jurisdictions suggest that attempts to fit machine agency into existing legal structures create severe enforcement gaps and ownership disputes, especially concerning training data extraction and digital asset piracy. Therefore, resolving the legislative vacuum requires a comprehensive legal reform through modified authorship doctrines and specialized regulations that protect human creative ecosystems while providing economic certainty for technological innovation.

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