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The US Copyright Office released a [statement of policy](#) last week concerning the copyrighting of works made with artificial intelligence.

“These technologies, often described as ‘generative AI,’ raise questions about whether the material they produce is protected by copyright, whether works consisting of both human-authored and AI-generated material may be registered, and what information should be provided to the Office by applicants seeking to register them,” the statement of policy read. “These are no longer hypothetical questions.”

Since companies like OpenAI and StabilityAI began releasing AI-enabled text and image generators in late 2022 and early this year, requests to copyright works with AI have increased dramatically. At first, the Copyright Office was not quite prepared to parse whether or not these works were eligible for copyright, leading to a flurry of mixed messages.

Last year, author Kris Kashtanova [claimed to be the first person](#) to have been granted copyright for an AI-created work when her request to register her comic book *Zarya of the Dawn*, which was produced using AI-generated images, was approved. The Copyright Office then put its decision under review and requested additional information when it was discovered that the images had been made using popular AI generator Midjourney.

Then, after reviewing its decision late last month, the Copyright Office [cancelled its original certification](#) and issued a new one. The elements that Kashtanova created—that is, the writing and other original elements—would be protected. The images would not, as only human-made creations are eligible for copyright.

This last point, that copyright only protects creations made by humans, will be the guiding principle for future judgements of the registration of works. When evaluating a work submitted for registration, copyright officials will be tasked with judging if the original choices executed in a work were produced by a human mind or produced mechanically. Some cases are simpler than others. For example, entering a text prompt into an image generator does not qualify as an act of authorship, as the Office likens the prompt to “instructions for a commissioned artist”. While that case appears clear, others are likely to require more thought.

“A human may select or arrange AI-generated material in a sufficiently creative way that ‘the resulting work as a whole constitutes an original work of authorship.’ Or an artist may modify material originally generated by AI technology to such a degree that the modifications meet the standard for copyright protection,” the statement of policy read.

The Office continued to say that, in these cases, copyright will only protect aspects of the work that were judged to have been made by the authoring human, resulting in partial protections of entire works, as in Kashtanova’s case.

According to the statement of policy, applicants who submit their works for registration from now on must declare if AI was used in any part of the work and those who have submitted applications that lack this declaration must amend them.