

# ***Posthuman Copyright: Copyright, AI, and Legitimacy***

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Copyright law is undergoing yet another existential crisis as artificial intelligence (AI) increasingly dominates cultural production. The U.S. courts and the United States Copyright Office (USCO) have reaffirmed the principle of human authorship, deeming AI-generated works unprotectable. And yet, AI-assisted works are protectable as long as human contribution is more than trivial. This distinction, though theoretically significant, will prove to be practically symbolic.

Copyright's humanism is a myth – another incarnation of the “creativity rhetoric” or the “ideology of romantic authorship” which the institutions and stakeholders use to provide copyright with popular legitimacy. This has been the case since copyright's inception, with the cases of *Bleistein* and *Feist* standing out for their personality rhetoric, lowering of subsistence thresholds, and hiding the corporate interests. This is how the D.C. Circuit *Thaler* decision was written, too. The court rhetorically put human authors at the center of copyright, called machines to be mindless tools, and hid the work-made-for-hire and corporate importance from the spotlight – while, simultaneously, making clear that human authorship requirement will pose no practical obstacles to the growing importance of AI-driven cultural production. In fact, the same can be said of the USCO's approach.

Both the Office and the courts are attempting to preserve copyright's legitimacy and coherence through anthropocentric, authorial rhetoric. This is a device, and the institutions will not curtail AI's expansion. It is nonetheless necessary not only to save copyright, but also the whole liberal jurisprudence, whose myths depend on the concept of the author, and romanticization of both the individual and the community, while fundamentally commodifying both.