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Legal Challenges of AI-Induced Copyright Infringement: Evaluating Liability and Dispute Resolution Mechanisms in Digital Era

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Abstract

The development of artificial intelligence (AI) has introduced unprecedented technological advancements and complex legal challenges, particularly in copyright infringement. The capability of the systems to replicate and disseminate copyrighted content without authorization raises questions about the adequacy of existing legal frameworks. Therefore, this research aims to explore the critical question of liability for AI-related copyright infringement, examining the responsibilities of developers, users, and systems. A comprehensive examination of relevant laws and regulations is carried out using a normative qualitative methodology. This is supported by case research and recent legal advancements, with a comprehensive comparison of relevant terms. Legal factors and dispute resolution methods applicable to AI-related copyright infringement are also considered. Due to the systems' autonomy, standard liability frameworks such as Digital Millennium Copyright Act (DMCA) cannot address AI-induced infringement. Meanwhile, a fault-based liability strategy that requires proof of purpose or negligence is suggested to improve accountability. This research reports the strengths and weaknesses of using dispute resolution mechanisms to solve copyright infringement. The results show that World Intellectual Property Organization (WIPO) dispute resolution provides a robust framework for resolving disputes after comparing regulations and mechanism

1. Introduction

Artificial intelligence (AI) is the beginning of a new period of technical progress, with unparalleled prospects in several industries. The development has also introduced complex legal dilemmas, particularly in the area of copyright infringement.[1] In this context, copyright infringement refers to the unauthorized use of material that violates the exclusive rights of copyright owner.[2] The issue has become more widespread due to the increasing prevalence of technology. AI systems engaged in content development and data analysis frequently make use of extensive material, which gives rise to major concerns over potential infringement of copyright law.[3] The concerns are intensified by the magnitude of distributing copyrighted creations, without appropriate acknowledgement or authorization from the original creators. An exemplary instance is legal action against OpenAI, an AI corporation, where the language model, GPT-3, produced content violating pre-existing copyright. Similarly, Google's DeepMind has been under scrutiny for using copyrighted information in the training of the AI systems without acquiring appropriate permits.[4]

A survey disclosed that most of the AI companies used intellectual materials without explicit agreement, showing the pervasive nature of the problem.[5] The examples show the urgent requirement for a strong legal structure in dealing with the intricacies of copyright violation. Legal consequences of the instances have led to extensive discussion over the sufficiency of existing copyright rules in governing AI technology. In addition, these instances act as crucial experimental grounds for the judiciary's capacity to adjust to the distinct issues presented by copyright infringement.[6]

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[1] Muhammad Hamza Zakir et al., "Navigating the Legal Labyrinth: Establishing Copyright Frameworks for AI-Generated Content," *Remittances Review* 9, no. 1 (March 22, 2024): 2515–32.
[2] Irina Atanasova, "Copyright Infringement in Digital Environment," *Economics & Law* 1, no. 1 (2019): 13–22.
[3] Mark Fenwick and Paulius Jurcys, "Originality and the Future of Copyright in an Age of Generative AI," *Computer Law & Security Review* 51 (November 1, 2023): 105892, https://doi.org/10.1016/j.clsr.2023.105892.
[4] Deven R. Desai and Mark Riedl, "Between Copyright and Computer Science: The Law and Ethics of Generative AI" (arXiv, 2024), https://doi.org/10.48550/ARXIV.2403.14653.
[5] Etinosa Igbinenikaro and Adefolake Olachi Adewusi, "Navigating the Legal Complexities of Artificial Intelligence in Global Trade Agreements," *International Journal of Applied Research in Social Sciences* 6, no. 4 (April 7, 2024): 488–505, https://doi.org/10.51594/ijarss.v6i4.987.
[6] Yadong Cui, *Artificial Intelligence and Judicial Modernization* (Singapore: Springer, 2020), https://doi.org/10.1007/978-981-32-9880-4.

The focal point of legal dispute revolves around the issue of liability to determine the bearer of responsibility when an AI system violates copyright. Responsibility could be attributed to the engineers, users, or AI as an autonomous entity. Therefore, this research aims to investigate the inquiries within civil law, with a specific emphasis on reparation and the process of arbitration. The International Association for the Protection of Intellectual Property (AIPPI) has documented more than 150 instances of copyright issues relating to AI in the last five years.[7] The main purpose is to clarify the civil remedies used to address copyright infringement and determine the appropriate legal venues for resolving disputes. This research reports the duties and possible legal obligations of various players engaged in the creation and implementation of AI technology.

Current legal frameworks and case law are examined to address the concerns. Comparative insights from jurisdictions that have adopted different approaches to AI and copyright are also considered. The analysis includes scrutiny of Digital Millennium Copyright Act (DMCA) in the United States, Copyright Directive of the European Union, and other pertinent international treaties. The research offers a fair and balanced method to resolve copyright infringement claims by evaluating the effectiveness of existing legal remedies and arbitration processes. This includes assessing the possibility of amending current legislation to effectively address the distinct difficulties presented by AI, as well as investigating alternate methods of resolving disputes, such as arbitration.

The increasing advancement and widespread integration of AI in different domains of society necessitate immediate consideration of legal consequences associated, specifically regarding copyright violation.[8] Therefore, this research aims to conduct a thorough examination of the difficulties and possible resolution in resolving copyright issues connected to AI, with a specific focus on civil law concerns. The primary objective is to facilitate the creation of a comprehensive legal method that effectively

[7] Javier Díaz-Noci, "Artificial Intelligence Systems-Aided News and Copyright: Assessing Legal Implications for Journalism Practices," *Future Internet* 12, no. 5 (May 8, 2020): 85, https://doi.org/10.3390/fi12050085.
[8] Rowena Rodrigues, "Legal and Human Rights Issues of AI: Gaps, Challenges and Vulnerabilities," *Journal of Responsible Technology* 4 (December 2020): 100005, https://doi.org/10.1016/j.jrt.2020.100005.

safeguards intellectual property rights while promoting innovation. In this context, a thorough response is offered on the optimal solution and method for selecting the most appropriate alternative dispute resolution mechanisms. The advantages of AI technology are used while upholding the rights of content creators.

2. Problem Statement

This research aims to evaluate the efficacy of current legal remedies and arbitration mechanisms, propose a balanced method for adjudicating AI-related copyright disputes, and provide comprehensive solutions for selecting the most suitable alternative resolution mechanisms. The difficulties and obstacles from liability and adequacy of current legal frameworks to address the issues are considered.

3. Methods

A normative qualitative methodology was adopted using a case and comparison approach by comparing the advantages and weaknesses of dispute resolution mechanism. The research commenced by conducting a comprehensive examination of laws and regulations relevant to the case as the primary data source. Meanwhile, the secondary data were sourced from journals, documents, news, and online media. The case research and recent legal advancements examined were related to copyright infringement committed by AI businesses in digital field. The main emphasis is on legal factors and the different methods used to resolve disputes.

4. Copyright in the Age of Technology: A Legal Perspective on Infringement and Liability

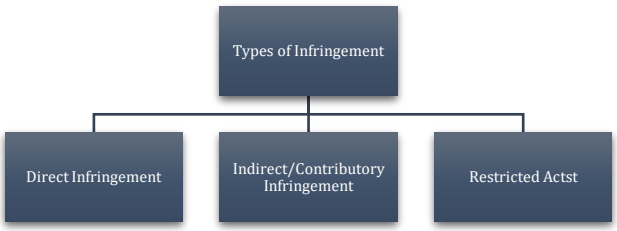
Copyright infringement is a significant concern within the field of intellectual property law, including the unauthorized use of works without the holder's permission.[9] This is the unauthorized use of copyright holder's exclusive rights, such as duplicating and distributing the work.[10] Copyright infringement is distinct from stealing since the concept includes unauthorized interference with the property rights of another party.[11]

[9] Benjamin Alarie, Anthony Niblett, and Albert Yoon, "How Artificial Intelligence Will Affect the Practice of Law," SSRN Scholarly Paper (Rochester, NY, November 7, 2017), https://doi.org/10.2139/ssrn.3066816.
[10] Jonathan Clough, *Principles of Cybercrime*, 2nd ed. (Cambridge: Cambridge University Press, 2015), https://doi.org/10.1017/CBO9781139540803.
[11] Ibid.

According to Khare et al, the act refers to the unauthorized use of protected works, such as literature, art, drama, music, and sound recordings.[12]

The Universal Copyright Convention (UCC) and the Berne Convention state that copyright infringement pertains to the unpermitted use of a safeguarded creation without the holder of rights. The Berne Convention establishes that copyright protects original works, such as literature, art, and scientific works, and gives exclusive control over the use and distribution of creations.[13] UCC provides worldwide standards for protecting copyright,[14] where artists have sole ownership of creations and the usage is carried out with proper authorization. The primary purpose is to protect the rights of creators and ensure adequate protection of creative works. There are 3 (three) types of copyright infringement used to determine appropriate liability theories.[15]

Figure 1. *Types of Infringement on Copyright*



Copyright infringement is a complex problem categorized into direct and indirect or contributory.[16] Direct infringement refers to the unlawful exercise of copyright owner's bundle of rights.[17] The violation does not necessitate a specific level of awareness in infringing the act. In this context, strict liability is applicable through the violation. Direct infringement is not commonly used to determine the responsibility of a service

[12] Aryan Khare et al., "Artificial Intelligence and Blockchain for Copyright Infringement Detection," in *2023 2nd International Conference on Edge Computing and Applications (ICECAA)* (2023 2nd International Conference on Edge Computing and Applications (ICECAA), Namakkal, India: IEEE, 2023), 492–96, https://doi.org/10.1109/ICECAA58104.2023.10212277.
[13] World Intellectual Property Organization, "Berne Convention for the Protection of Literary and Artistic Works" (1886).
[14] UNESCO, "Universal Copyright Convention" (1952).
[15] Matthew M. Chacko, "Service Provider Liability for Copyright Infringement in India: Learning from the American Experience," *Nalsar Law Review* 1, no. 1 (2003): 132.
[16] Ibid.
[17] Séverine Dusollier, "Intellectual Property and the Bundle-of-Rights Metaphor," in *Kritika: Essays on Intellectual Property*, ed. Peter Drahos, Gustavo Ghidini, and Hanns Ullrich, vol. 4 (Edward Elgar Publishing, 2020), 146–79, https://doi.org/10.4337/9781839101342.00013.

provider, but may be applicable in certain instances.[18] Meanwhile, indirect or contributory infringement occurs when the defendant intentionally causes or significantly contributes to the behavior.[19] In this context, the offender is aware of the violation of law while engaging in the behavior.[20] The doctrine of indirect or contributory infringement is legal concept applied to cases by AI.[21] This theory of liability holds individuals or entities responsible for indirectly contributing to infringement.

Restricted acts refer to particular actions that violate copyright laws when performed without authorization.[22] These activities include duplicating the work, distributing copies, public performance, broadcasting, and making derivatives. Engaging in any of the acts without permission breaches copyright holder's exclusive rights, resulting in legal repercussions.[23] This guarantees that artists retain authority over creations, safeguarding financial and ethical entitlements. The progress of AI technology presents further obstacles, requiring revisions to legal frameworks to tackle direct and indirect infringement.[24] For instance, when an AI tool is coded to extract and use copyrighted material without authorization, this action is known as direct infringement. Developers or users of the system may be held responsible after gaining or contributing to the unauthorized use of copyrighted content.[25] These challenges should be tackled to

[18] João Pedro Quintais and Sebastian Felix Schwemer, "The Interplay between the Digital Services Act and Sector Regulation: How Special Is Copyright?," *European Journal of Risk Regulation* 13, no. 2 (June 2022): 191–217, https://doi.org/10.1017/err.2022.1.

[19] Kanchana Kariyawasam, "Artificial Intelligence and Challenges for Copyright Law," *International Journal of Law and Information Technology* 28, no. 4 (April 11, 2021): 279–96, https://doi.org/10.1093/ijlit/eaaa023.

[20] Arum Afriani Dewi, "Arbitrase Online Di Era Revolusi Industri 4.0 Dan Pandemi Covid-19," *Jurnal Legal Reasoning* 3, no. 2 (June 30, 2021): 100–115, https://doi.org/10.35814/jlr.v3i2.2409.

[21] Jorge L. Contreras and Martin Husovec, eds., *Injunctions in Patent Law: Trans-Atlantic Dialogues on Flexibility and Tailoring* (Cambridge: Cambridge University Press, 2022), https://doi.org/10.1017/9781108891103.

[22] Eleni Polymenopoulou, "Rembrandt's Missing Piece: AI Art and the Fallacies of Copyright Law," *Washington Journal of Law, Technology & Arts* 19, no. 2 (2024): 64–88, https://doi.org/10.2139/ssrn.4794932.

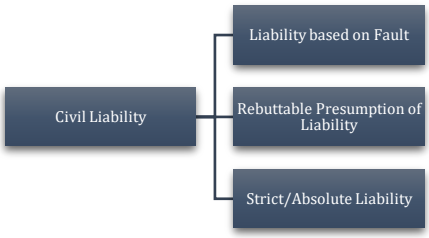
[23] Satria Perdana et al., "Legal Implications for Parties Who Display Inappropriate Content Through Social Media Platforms (Copyright Study)," *KnE Social Sciences*, January 5, 2024, 477–91, https://doi.org/10.18502/kss.v8i21.14764.

[24] Xiang Yu et al., "Chapter 8: Challenges of Artificial Intelligence to Patent Law and Copyright Law and Countermeasures," in *The Future of Intellectual Property*, ed. Daniel J. Gervais (Elgar Online, 2021), https://www.elgaronline.com/edcollchap/edcoll/9781800885332/9781800885332.00014.xml.

[25] Rustam Mutallimzada, "Liability for Copyright Infringement: An Investigation of the Legal Use of Trained Artificial Neural Networks in the Context of Copyright Law" (Master Thesis, Lund, Sweden, Lund

ensure copyright legislation remains up-to-date with technical progress and effectively safeguards the rights of creators in digital era. Considering the different forms of infringement, individuals may inquire who can be trustworthy in relation to the violations. In the context of civil law, there are three distinct principles of civil responsibility.

Figure 2. *Civil Liability Principles*



Civil liability refers to a range of legal principles that hold a party accountable for inflicting injury to another individual.[26] Meanwhile, strict or absolute liability is legal principle that holds individuals responsible for damages caused, without requiring proof of fault or negligence.[27] This principle is commonly used in instances including activities inherently harmful or defective. The purpose is to ensure that the individuals are held accountable for the expenses of any resulting damages. In the concept of rebuttable presumption of liability, the defendant is responsible but the assumption can be challenged by the presenting evidence to prove otherwise.[28] This legal principle is commonly applied in complex issues of causality related to environmental pollution. Additionally, liability predicated on fault necessitates the claimant to establish that the defendant's negligence or deliberate wrongdoing directly resulted in harm.[29]

Civil responsibility is crucial in protecting intellectual property rights in cases of

University, 2020), https://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=9040586&fileOId=9040587.

[26] Karolina Ziemianin, "Civil Legal Personality of Artificial Intelligence: Future or Utopia?," *Internet Policy Review* 10, no. 2 (2021): 1–22, https://doi.org/10.14763/2021.2.1544.

[27] Deviana Yuanitasari, Hazar Kusmayanti, and Agus Suwandono, "A Comparison Study of Strict Liability Principles Implementation for the Product Liability within Indonesian Consumer Protection Law between Indonesia and United States of America Law," *Cogent Social Sciences* 9, no. 2 (December 15, 2023): 2246748, https://doi.org/10.1080/23311886.2023.2246748.

[28] Ibid.

[29] Bamidele O. Adebayo, "The Nexus Between Vicarious Liability of Employers and the Acts Committed 'in the Cause of Employment' By The Employees: A Discourse," *Journal of Commercial and Property Law* 8, no. 4 (September 29, 2021): 69–86.

copyright infringement, which is the unauthorized use of work without the consent of the rights holder. Various types can be established based on the specific characteristics of the violation. Holding individuals responsible based on fault is the most appropriate option when determining the most suitable and accurate method to tackle copyright infringement. This process necessitates the rights holder to substantiate that the infringer's activities were deliberate or negligent.[30]

The concept of liability based on fault is highly appropriate for cases due to the consistency with justice and fairness.[31] In this context, the infringer's activities are intentional or negligent, with emphasis on awareness and conduct. The method aids in differentiating between accidental and deliberate infringement, guaranteeing that individuals who unintentionally violate are not unjustly punished. For instance, when copyrighted content is intentionally duplicated without permission, the individuals are legally responsible due to culpability, which guarantees suitable remedies for copyright proprietor. This method based on blame strikes a balance between safeguarding intellectual property rights and avoiding severe sanctions for unintentional errors. Responsibility is justly allocated to enhance equal implementation of copyright legislation by mandating the presentation of evidence about intention or negligence. This process promotes increased consciousness and conscientiousness among users of protected material, cultivating an accountable and knowledgeable atmosphere for artists and consumers.

The obligations and potential liabilities of many parties are questioned due to new legal issues. AI developers may face legal responsibility for creating systems with the potential to violate intellectual property rights, while users are held accountable for using AI in the concept of infringement. The simultaneous emphasis on developers and users shows the intricacy of overseeing intellectual property concerns associated with AI. Conversely, China has initiated a significant legal proceeding about internet

[30] Laura Tammenlehto, "Copyright Compensation in the Finnish Sanctioning System – A Remedy for Ungained Benefit or an Unjustified Punishment?," *IIC - International Review of Intellectual Property and Competition Law* 53, no. 6 (July 1, 2022): 883–916, https://doi.org/10.1007/s40319-022-01206-6.
[31] Jella Pfeiffer et al., "Algorithmic Fairness in AI," *Business & Information Systems Engineering* 65, no. 2 (April 1, 2023): 209–22, https://doi.org/10.1007/s12599-023-00787-x.

copyright infringement.[32] The case includes Shanghai Character License Administrative Co., Ltd (SCLA), and an AI Generative Company as the plaintiff and defendant, respectively.[33] According to the plaintiff, the AI-generated graphics have violated exclusive rights to the Ultraman franchise.

The court's ruling showed the responsibility of AI service provider even though the model was created by a third-party supplier. The decision shows the substantial responsibility of service providers to exercise caution. The defendant was responsible for infringement results produced by the model. The verdict emphasizes that operators cannot fully delegate obligations to third-party developers. In this context, individuals must proactively reduce the risks of copyright violation connected to the use of the models.

The decision shows the responsibility of AI service provider, even though the model was created by a third-party supplier. Furthermore, the ruling established that the operator was accountable for the infringing outputs. This portion of the verdict reports the intricacy of liability since there are several parties in the development and operation of the systems. In addition, the ruling establishes legal principle, where individuals responsible for operating AI can be held accountable for the outcomes produced by models created by other parties.

5. Legal Pitfalls and Protections: Dispute Resolution in AI Enterprises

The selection of dispute resolution mechanisms on digital platforms necessitates adherence to the legislation of the jurisdiction in which the company is incorporated,[34] as stated in the Terms and Conditions (TnC). The selection of mechanisms on the Generative AI platform, as frequently showed in TnC is a significant matter of concern, affecting the applicable jurisdiction and the venue for resolving disputes. This is

[32] Christine Yiu and Toby Bond, "Liability of AI Service Providers for Copyright Infringement: Guangzhou Internet Court Reaches World's First Decision," April 10, 2024, https://www.twobirds.com/en/insights/2024/china/liability-of-ai-service-providers-for-copyright-infringement.

[33] Kyryl, "Chinese Court Takes on First Copyright Case Against Generative AI Platform," *LegalTechTalk* (blog), March 4, 2024, https://www.legaltech-talk.com/chinese-court-takes-on-first-copyright-case-against-generative-ai-platform/.

[34] Stefan Vogenauer, "Regulatory Competition through Choice of Contract Law and Choice of Forum in Europe: Theory and Evidence," *European Review of Private Law* 21, no. 1 (January 1, 2013): 13–78.

particularly important since generative AI includes cross-jurisdictional contacts during the development and usage. AI systems determine dispute resolution based on geographical location, as shown in Table 1.

Table 1. *Selection of AI dispute resolution for Multiple AI Companies Worldwide*

AI	Dispute Resolution Mechanism	
Open AI	Law of the State of California	Resolving Case through Arbitration under the Law of the State of California
Assembly AI	Law of the State of California	Resolving Cases through Arbitration and Court under the Law of the State of California
Cohere	Law of the Province of Ontario and the Federal Laws of Canada	Resolving Cases through Arbitration and Court under the Law of the Province of Ontario and the Federal Laws of Canada
Synthesia AI	Law of England and Wales	Resolving Cases through Arbitration and Court under the Law of England and Wales
Stability AI	Law of the State of New York	Resolving CaseCases through Arbitration an/orand Court under the Law of the State of New York
Google Bard	Law of the State of Delaware, USA	Resolving Cases through Arbitration and Court under the Law of the State of Delaware, USA
Prompt Base	Law of the State of Washington	Resolving Cases through Arbitration and Court under the Law of the State of Washington, USA
Character AI	Law of the State of California	Resolving Cases through Arbitration and Court under the Law of the State of California

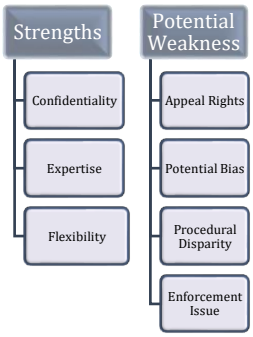
Source: Secondary Data Processed in 2024

Arbitration is a crucial element of dispute resolution method determined by the AI company. This method includes the selection of a neutral arbitrator whose decision is important and can be enforced. Arbitration is commonly preferred in technology-driven industries because of the capacity to effectively resolve intricate and technical conflicts.[35] The AI corporation has implemented the mandatory concept as the principal mechanisms for resolving disputes in a regulated and expert-guided setting. The purpose is to simplify the process of resolving disputes, using the expertise of

[35] Victor Enebeli and Success Gilbert, "Artificial Intelligence: Challenges and Opportunities for Arbitration in Nigeria," *Journal of Public Law* 9, no. 2 (2022): 23–41, https://doi.org/10.2139/ssrn.4245238.

arbitrators to efficiently handle the complexities of AI-related concerns. However, these mechanisms produced strengths and weaknesses as shown in Figure 3.[36]

Figure 3. *Strengths and Weakness of Arbitration by AI Companies*



The first aspect to consider is the strengths of the selected arbitration process, which provides benefits, specifically in terms of confidentiality, expertise, and flexibility.[37] The proceedings maintain confidentiality, safeguarding critical corporate information and proprietary AI technology from being disclosed to the public. Ensuring confidentiality is important in protecting exclusive information and retaining a competitive advantage.[38] In this context, the rigorous arbitration procedure guarantees the confidentiality of all aspects of dispute, such as the evidence submitted and the verdict to safeguard the reputation and commercial concerns of the parties. Another significant advantage is the capability to select arbitrators who possess specialized knowledge in the fields of AI and intellectual property law. This guarantees that the arbitrator possesses a profound comprehension of the technical and legal intricacies associated with dispute, resulting in more knowledgeable and precise rulings.[39]

The process enables parties to select arbitrators who possess extensive knowledge and expertise in the intricacies of AI technology.[40] This specific skill has the potential to

[36] Ioannis Antonopoulos et al., "Artificial Intelligence and Machine Learning Approaches to Energy Demand-Side Response: A Systematic Review," *Renewable and Sustainable Energy Reviews* 130 (September 1, 2020): 109899, https://doi.org/10.1016/j.rser.2020.109899.
[37] Yusuf Olaoluwa, "Analysis of the Strengths and Weaknesses of Alternative Dispute Resolution (ADR) in Commercial Disputes" (Academia.edu, February 2019), https://doi.org/10.1093/law-mpeipro/e2532.013.2532.
[38] Sara Quach et al., "Digital Technologies: Tensions in Privacy and Data," *Journal of the Academy of Marketing Science* 50, no. 6 (November 1, 2022): 1299–1323, https://doi.org/10.1007/s11747-022-00845-y.
[39] Ibid.
[40] Maxime C Cohen, Samuel Dahan, and Colin Rule, "Conflict Analytics: When Data Science Meets Dispute Resolution," *Conflict Analytics*, accessed June 27, 2024,

improve the quality and impartiality of arbitration,[41] which provides a level of adaptability.[42] Therefore, the parties can reach a consensus on the regulations governing the procedure, which includes the methods for presenting evidence and the timeframe for reaching a result.[43] The flexibility of the conflict resolution process enables customization according to the requirements and limitations of the parties, resulting in enhanced adaptability and efficiency.

On the contrary, arbitration established by the AI business has different limitations, specifically with the rights to appeal, potential partiality, and challenges related to enforcement.[44] A major issue is the restricted basis for appeal since the arbitrator's ruling is conclusive and obligatory, providing little chance for redress. This situation provides difficulties when the decision is viewed as unreasonable or prejudiced, resulting in unhappiness among the parties. An additional major problem is the possibility of bias since the neutrality of arbitrators may be questioned, particularly when the same arbitrators are selected by one party. In this context, the AI company must provide a transparent selection procedure for arbitrators and uphold diversity and impartiality to reduce the danger.

The implementation of arbitration rulings can pose challenges because legal criteria and methods for enforcement exist in different countries.[45] This results in legal obstacles and delays, which complicate the implementation of arbitration rulings. To enhance the fairness and dependability of the arbitration process, the AI company needs to tackle enforcement problems by implementing explicit guidelines and support mechanisms.

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https://conflictanalytics.queenslaw.ca/sites/cawww/files/img/research/Conflict%20Analytics-MBR-Revised-Version.pdf.

[41] Ilka Hanna Beimel, "Independence and Impartiality in International Commercial Arbitration" (Thesis, Basel, Switzerland, University of Basel, 2021), https://edoc.unibas.ch/87369/.

[42] Kevin Kotadiya and Ishita Agrawal, "Efficient Verification of Arbitration Design with a Generic Model," in *DVCon Proceedings Archive* (Design & Verification Conference & Exhibition, India: DVCon, n.d.), https://dvcon-proceedings.org/wp-content/uploads/3A2_DVCon_India_2023_Final_Paper_6347.pdf.

[43] Ibid.

[44] Nicole Borba Oliveira, "The Role of International Arbitration in Resolving Cross-Border Smart Contract Disputes: Opportunities and Challenges" (Dissertation, Lisboa, Portugal, NOVA School of Law, 2023).

[45] Zebiniso Khalilova, "Practice of Commercial Arbitration and Recognition and Enforcement of Foreign Arbitral Awards Concerning Disputes in Uzbekistan: A Comparison with Germany" (Dissertation, Bremen, Germany, Universität Bremen, 2020), https://media.suub.uni-bremen.de/handle/elib/4536.

An important limitation of the process is the possibility that a party may lack knowledge of the procedural regulations.[46] This lack of familiarity results in misunderstandings and errors impacting the fairness of the final decision. Arbitration adheres to the procedural laws of the state, placing parties at a disadvantage when there is no familiarity with the laws.[47] Moreover, insufficient knowledge leads to unintentional relinquishment of rights or ineffective presentation of cases. The procedural regulations can be intricate and differ substantially among jurisdictions, potentially resulting in mistakes. Unfamiliar parties may be required to engage the services of local legal professionals to navigate the procedure, resulting in higher expenses and an unequal situation when a party secures superior legal counsel.[48] The validity of the conclusion is undermined when the arbitration process is biased or opaque. In this context, a lack of procedural procedures leads to feelings of unfairness and absence of transparency.

The procedural requirements include precise deadlines, regulations about the acceptability of evidence, or special guidelines for submitting materials distinct from other legal systems. An individual or group that is not aware of these specific regulations may overlook important time limits or struggle to effectively convey an argument, hence weakening the position in the arbitration process. This limitation is severe in international situations, where parties from various legal systems are engaged. The discrepancy in legal expertise and background is evident when individuals come from legal systems with distinct methods of arbitration and resolving disputes.[49]

The arbitration of a hypothetical scenario takes place in California where a European AI startup is engaged in conflict with a prominent AI corporation. The European startup

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[46] Hafiz Gaffar and Saleh Albarashdi, "Copyright Protection for AI-Generated Works: Exploring Originality and Ownership in a Digital Landscape," *Asian Journal of International Law*, January 23, 2024, 1–24, https://doi.org/10.1017/S2044251323000735.
[47] Ibid.
[48] Ilias Bantekas, "Equal Treatment of Parties in International Commercial Arbitration," *International & Comparative Law Quarterly* 69, no. 4 (October 2020): 991–1011, https://doi.org/10.1017/S0020589320000287.
[49] Alireza Abin, Zeinab Haghtalab, and Hadi Ghorbani, "Examining the Provisional Order in Arbitration in Domestic Law, Explaining the Needs, Gaps, and Harms of the Current Situation," *Russian Law Journal* 11, no. 10S (2023): 223–36.

lacks familiarity with special Californian procedural requirements, such as discovery regulations, which are significantly different from Europe. Unfamiliarity with the process may lead to procedural errors, such as neglecting to obtain essential research within the specified timeframe or underestimating the significance of certain preparatory motions.

The intricacies of maneuvering through procedures in various legal systems may necessitate significant legal knowledge and resources.[50] The requirement for expert legal representation to interpret and adhere to procedural prerequisites substantially increases the expenses and intricacy of the arbitration procedure for the party lacking familiarity with regional legislation.[51] Smaller companies or those with limited resources may face difficulties in affording such expertise, resulting in an imbalance. In this context, a party may have a superior understanding of the local procedural intricacies to unintentionally gain an advantage.[52]

This scenario leads to a situation in which the local party can take advantage of complex procedural details. For instance, the position may be strategically enhanced by preparing cases accordingly when there is awareness relating to the specific evidence. The difference in understanding of procedures leads to the perception of injustice and prejudice, weakening the credibility and acceptance of arbitration decisions.

The process of enforcing arbitration rulings can be intricate, particularly in cases of multinational disputes. The presence of varying legal requirements and enforcement procedures in different jurisdictions creates complexities in the process. For example, an arbitration award issued in California may encounter difficulties in being enforced in Europe because of disparities in handling the rulings.[53] The foreign party may be

[50] Nurus Sakinatul Fikriah Mohd Shith Putera et al., "Artificial Intelligence for Construction Dispute Resolution: Justice of the Future," *International Journal of Academic Research in Business and Social Sciences* 11, no. 11 (November 6, 2021): 139–51, https://doi.org/10.6007/IJARBSS/v11-i11/11263.
[51] Oleksii Makarenkov and Lurdes Varregoso Mesquita, "Challenges of Legal Guarantees for the Enforcement of Arbitral Awards in International Commercial Cases," *Access to Justice in Eastern Europe* 7, no. 1 (December 20, 2023): 107–26, https://doi.org/10.33327/AJEE-18-7.1-a000133.
[52] Ibid.
[53] Jef Klazen, Marcus J Green, and Chris Cogburn, "Enforcement in the United States," October 13, 2020, https://globalarbitrationreview.com/review/the-arbitration-review-of-the-americas/2021/article/enforcement-in-the-united-states.

subjected to a distinct legal procedure to enforce the award, which adds complexity to the settlement and potentially results in a delay in achieving justice.[54]

Historical precedents showed that litigants lacking knowledge of local procedural laws frequently encountered difficulties. In the well-known dispute between Mitsubishi Motors Corp. and Soler Chrysler-Plymouth, Inc., the U.S. Supreme Court recognized the intricate challenges when arbitration includes multinational parties and is conducted under procedural standards. The Court affirmed the validity of the arbitration agreement and emphasized challenges encountered by foreign parties.

AI company must furnish sufficient direction and support to minimize potential hazards and guarantee an equitable procedure. These offerings include comprehensive step-by-step instructions, provision of local legal specialists, or preparatory educational workshops on procedural laws to acquaint foreign entities with applicable regulations.[55] To maintain fairness, transparency, and effectiveness, proactive measures should be taken to resolve possible shortcomings.

6. Cross-Border Conflicts: WIPO's Approach to AI Intellectual Property Disputes

The World Intellectual Property (WIPO) Arbitration and Mediation Center provides a specific structure for addressing disputes, including cases of copyright infringement by AI businesses.[56] With the ongoing proliferation and deeper integration of technology across many industries, there has been an increase in the number of copyright-related issues. These conflicts frequently revolve around intricate technical matters and significant proprietary concerns, showing the need for quick and equitable processes for resolution. WIPO's system, which is created to address cross-border conflicts offers a customized resolution for the types of problems.[57] However, dispute resolution process is not exempt from critiques and possible shortcomings, despite the numerous

[54] Ibid.
[55] Panchenko Viktoriia and Kornieva Polina and Cherevatenko Iryna, "Procedural Law Role in the International Commercial Arbitration: Some Remarks," *Issue 4/2022* 4, no. 16 (November 14, 2022): 187–200.
[56] Ay Yunus Emre, "Intellectual Property Disputes and International Arbitration," *Zbornik Radova Pravnog Fakulteta u Splitu* 58, no. 3 (September 7, 2021): 929–41, https://doi.org/10.31141/zrpfs.2021.58.141.929.
[57] Ibid.

advantages.

The benefits of resolution include several aspects such as cost-effectiveness and expeditiousness, adaptability and autonomy, confidentiality, fair outcomes driven by experts, acceptance by multiple parties, and a less confrontational method.[58] Resolution methods overseen by WIPO are more expeditious and economical in comparison to conventional court action. For example, disputes considered under the Uniform Domain Name Dispute Resolution Policy (UDRP) need approximately two months from the time of filing to the panel's conclusion.[59] This timeframe is shorter compared to the 1-2 years that similar matters may take in national courts.[60] Resolution is significantly more cost-effective than court proceedings, serving as a highly appealing choice. In addition, the concept empowers parties to customize the procedure according to the particular requirements and retain authority over the final result. The ability to select arbitrators or mediators with specialized knowledge of intellectual property issues is advantageous.[61] This customized strategy facilitates the attainment of outcomes more suited to the parties' interests and the unique intricacies of conflicts.

Dispute resolution provided by WIPO gives the advantage of confidentiality conducted privately and discreetly.[62] This ensures that critical technological and financial matters remain undisclosed to the public, safeguarding the interests of the relevant parties. In addition, dispute resolution services use arbitrators, mediators, and experts who possess extensive expertise and technical proficiency in intellectual property. This level of proficiency results in fairer outcomes and expedited resolution to reduce costs and minimize exertion.[63] The widespread adoption and streamlined application of

[58] Arnita Pratiwi Arifin, "An Analysis of the Role of World Intellectual Property Organisation and the Alternative Dispute Resolution in Implementing the Protection of Intellectual Property Rights in the Internet Era" (Thesis, Makassar, Universitas Hasanuddin, 2016).
[59] Ibid.
[60] Ibid.
[61] Yuchen Wen, "The Role of WIPO and WTO in International Intellectual Property Disputes" (International Conference on Educational Innovation and Philosophical Inquiries, Eliwise Academy, 2021), 50–57.
[62] Arifin, "An Analysis of the Role of World Intellectual Property Organisation and the Alternative Dispute Resolution in Implementing the Protection of Intellectual Property Rights in the Internet Era."
[63] Ibid.

alternative dispute resolution procedures, such as UDRP by WIPO is deserving of attention.[64] These processes are acknowledged and embraced in various legal systems, aiding in resolution of international conflicts by mitigating issues on the selection of applicable laws or jurisdictions. In contrast to court proceedings, ADR achieves optimal resolution, potentially maintaining stronger connections. The less adversarial nature enhances peaceful agreements and minimizes negative emotions, as a collaborative and non-confrontational strategy for resolving disputes.

The limitations of dispute resolution are related to several significant objections and concerns. A significant critique of WIPO's UDRP is the susceptibility to prejudice, permitting complainants to select the providers or panelists for resolving disputes.[65] This results in 'forum shopping,' where individuals filing complaints select providers or panellists who are more inclined to support personal interests.[66] The selection procedure gives rise to issues over the fairness of the process and the possibility of outcomes being swayed by the complainants' preferences. In addition, UDRP process does not include provisions for discovery or the opportunity to present arguments for damages and causation as allowed in conventional court proceedings.[67] This constraint leads to a less exhaustive investigation and perhaps impacts the impartiality and comprehensiveness of the solution. The absence of procedural rights provides a substantial disadvantage for parties desiring a more comprehensive investigation of the issues.

Dispute resolution services fail to sufficiently tackle the disparity in access to digital resources between developed, developing, and least-developed countries (LDCs).[68] This disparity impacts the accessibility and equity of dispute resolution procedures for

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[64] Ibid.
[65] Nirmalya Syam, "Mainstreaming or Dilution? Intellectual Property and Development in WIPO," Research Report (Research Paper, 2019), https://www.econstor.eu/handle/10419/232214.
[66] Arifin, "An Analysis of the Role of World Intellectual Property Organisation and the Alternative Dispute Resolution in Implementing the Protection of Intellectual Property Rights in the Internet Era."
[67] Shelly Kurniawan, "Perbandingan Penyelesaian Sengketa Merek Berdasarkan Undang-Undang Merek Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis Jo. Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa Dengan World Intellectual Proper," *Dialogia Iuridica: Jurnal Hukum Bisnis Dan Investasi* 11, no. 1 (November 19, 2019): 97–113, https://doi.org/10.28932/di.v11i1.1972.
[68] Ibid.

parties from underdeveloped regions. The discrepancy results in an asymmetry in the capacity to engage in the alternative dispute resolution process and may lead to less fair outcomes for individuals from less economically advanced regions. Meanwhile, conventional methods may not possess the necessary resources and capabilities to effectively address the distinctive difficulties and intricacies of conflicts.[69] This includes addressing behaviors and attitudes that are absent in the tangible realm, necessitating a reassessment and modification of dispute resolution mechanisms for the virtual setting.[70] ADR processes should also be adapted to the internet environment to effectively deal with the changing character of disputes. Resolution services of WIPO provide a useful method of resolving intellectual property disputes. However, obstacles are encountered concerning potential prejudice, inadequate procedural rights, difficulties in digital accessibility, and adaption to the online context.[71] The shortcomings should be rectified to improve the efficiency and impartiality of the alternative resolution system offered by WIPO. In this context, the concept continues to be a viable and just method for settling intellectual property conflicts in a digitalized society.

The method of WIPO is strong compared to other dispute resolution systems provided by AI businesses. The established structure shows that disputes are resolved by impartial experts who possess extensive expertise in intellectual property, minimizing the probability of biased results. Moreover, the preservation of confidentiality is crucial for safeguarding delicate business data and upholding the credibility of the participating companies. This aspect may not be as strictly upheld in the internal mechanisms used by AI companies.

Dispute resolution process of WIPO is globally acknowledged, offering a degree of

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[69] Hossein Fazilatfar, "Public Policy Norms and Choice-of-Law Methodology Adjustments in International Arbitration," *South Carolina Journal of International Law and Business South Carolina Journal of International Law and Business* 18, no. 2 (2022): 88–111, https://doi.org/10.2139/ssrn.4152321.

[70] Jr Albert Bates and R. Zachary Torres-Fowler, "Internationalizing Domestic Arbitration: How International Arbitration Practices Can Improve Domestic Construction Arbitration," *Dispute Resolution Journal* 74, no. 3 (March 1, 2019), https://kluwerlawonline.com/api/Product/CitationPDFURL?file=Journals\DRJ\DRJ2020017.pdf.

[71] Hugo Cossette-Lefebvre and Jocelyn Maclure, "AI's Fairness Problem: Understanding Wrongful Discrimination in the Context of Automated Decision-Making," *AI and Ethics* 3, no. 4 (November 1, 2023): 1255–69, https://doi.org/10.1007/s43681-022-00233-w.

universality and recognition not possessed by the internal mechanisms of AI company. This agreement among many parties helps to overcome legal issues related to jurisdiction and guarantees that decisions are honored and enforced to make the process of resolving disputes more efficient and predictable.[72] Moreover, the non-confrontational character promotes greater cooperation and mutually advantageous settlements, safeguarding commercial connections and cultivating a favorable atmosphere for future engagements. Dispute resolution of WIPO is a preferable choice for settling intricate copyright disputes in the AI industry due to the characteristics. The process offers a broader, unbiased, confidential, and equitable method for addressing copyright disputes including AI businesses.

7. Conclusion

In conclusion, the WIPO Arbitration and Mediation Center was reported to provide a comprehensive structure for resolving intellectual property issues relating to copyright infringement in AI. Resolution system had several benefits including cost-effectiveness, rapidity, adaptability, and confidentiality. In this context, the system was backed by experienced arbitrators and mediators. Alternative dispute resolution methods were typically more efficient and cost-effective compared to traditional court litigation. Additionally, the anonymity of hearings safeguarded important company information. The ADR services were driven by expertise, where conflict was settled by knowledgeable professionals to obtain fairer decisions.

Dispute settlement procedure was distinguished by the use of knowledge, adherence to strict confidentiality rules, as well as commitment to impartial and adaptable methods. The identified deficiencies were addressed and continuously improved to strengthen the effectiveness and fairness of the system. Therefore, the system remained the preferred alternative for resolving intellectual property disputes in a rapidly evolving digital era.

[72] Abubakar Aliyu et al., "Level of Awareness of Copyright Law and Infringement by Students of Tertiary Institutions in Niger State, Nigeria," *Jewel Journal of Librarianship* 16, no. 1 (2021): 51–63.

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