



# RHTLaw Vietnam

LEGAL UPDATE

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## WHO OWNS WHAT AI CREATES? THE TREND TOWARD A HUMAN-CENTRIC APPROACH

Artificial Intelligence (AI) is no longer a futuristic concept but a powerful force that is changing industries, economies and our daily lives. AI-generated contents - from images and music to novels - are no longer unfamiliar to us.

Traditionally, intellectual property (IP) is protected by laws covering, for example, patents, copyrights, and trademarks, enabling individuals and organizations to gain recognition or financial benefits from their creations.

When AI technology is used to create new works, identifying an “author” or “owner” is more difficult, and may even be impossible. If there is no “author”, is there any enforceable IP protection for the work? It is challenging the intellectual properties laws. This has caused a reflection on how traditional ideas of authorship and inventorship apply to this new technology and what impact this has on the role of people in the creative process.

### GLOBAL RESPONSES

Starting around 2020, there has been awareness of the rapid rise of AI and the need to regulate it. For years, legal professionals, academics, and public bodies around the world have been actively discussing whether AI-generated works should be protected under IP regime. Concerns have focused on how current IP laws should apply to AI models

in order to strike a balance between incentivizing innovation in this field and protecting the rights of human innovators and creators.

In general, there seems to be a growing trend recognizing that creations generated by AI without human input may not be protected. However, when human creators use AI as a tool and contribute sufficiently original expression, their creations may still qualify for protection.

For example, AI may be capable of identifying patterns or new information from large datasets; however, to qualify for protection, AI-generated outputs must be developed into a specific and practical application, i.e. there must be ‘something more’ than mere findings. It is also proposed that



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the human must have had a ‘definite and complete idea’ in mind before using an AI tool. If a human’s involvement is limited to merely providing basic queries or simple prompts to an AI tool, the resulting output may not qualify for protection. However, where a human undertakes additional creative input, such as modifying, adding to, or deleting from the AI-generated materials, such contributions may be considered copyrightable.

## VIETNAM’S RESPONSES

### Human-centric AI Law as a Foundation

Vietnam enacted Law on Artificial Intelligence No. 134/2025/QH15 (“**AI Law**”), effective from 1 March 2026, providing a solid foundation for AI regulation across various sectors. The AI Law also adopts a human-centred approach, emphasizing that AI shall serve humans and not replace human authority and responsibility. In addition, the AI Law prohibits the collection, processing, or use of data to develop, train, test, or operate AI systems in violation of IP laws.



### Human Contribution as a Criterion for IP Protection

Following the AI Law, Vietnam’s IP framework has also been updated through amendments to IP laws and decrees, including Law No. 131/2025/QH15 on amendments to the Law on IP (the “**Amended IP Law**”), Decree No. 100/2026/ND-CP regarding industrial property rights and rights to plant varieties, and Decree No. 134/2026/ND-CP regarding copyright and related rights (collectively the “**Amended IP Decrees**”).

The Amended IP Law reaffirms that IP rights are the rights of **organizations and individuals** over objects of copyright and related rights, industrial property rights, and rights to plant varieties.

In addition, the Amended IP Decrees provide further clarification that “**significant contribution to conception**” by humans is a key factor in determining whether the creations can be protected. In general, a human may be deemed to have made a significant contribution to the creation of IP where they (a) control the conception, such as defining specific problems and formulating specific solutions; (b) determine and design key inputs for the AI system, such as data, objectives, constraints and parameters, rather than relying solely on automated suggestions; (c) control and refine AI-generated outputs process, such as crafting specific prompts and selecting/ modifying/ refining/ experimenting with outputs, in a meaningful way that may alter their core structures or functions; and (d) determine the final outputs to be protected, ensuring that they reflect human ideas rather than the random or automated arrangement of algorithms.

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Those who claim authorship may be required to prove their significant human contribution. It is therefore advisable to retain prompt histories, draft versions, technical configurations, design documentation, and other evidence demonstrating that the creation process remained under human control.

### **Permitted Text and Data Mining for AI Development**

Data is the “fuel” for AI, and training AI needs large datasets which may include copyrighted materials. Recognizing that, the Amended IP Law introduces a breakthrough provision regarding text and data mining (TDM). Organizations and individuals are permitted to use lawfully published and publicly accessible IP-protected works and data for scientific research as well as AI testing and training<sup>1</sup>. Such TDM shall not unreasonably prejudice the lawful rights and interests of authors and IP right holders.

Controlling TDM is expected to ensure that AI models are trained on reputable and lawful data, thereby reducing bias and increasing public trust; preventing AI from ‘overfitting’ and ‘mirroring,’ where outputs are overly similar to the original training data; and helping creators ensure that their works are not used without permission or compensation, thereby avoiding the stifling of creativity.

### **CORPORATE RESPONSES**

**Safe Data Sourcing for AI Training.** Establish a “Safe Data Sourcing” process. Ensure that all training data is lawful. This may involve reviewing the terms and conditions of data sources and maintaining a clear audit trail of where the information originated.

**Tracking Human Conception in AI-Assisted Creations.** Start tracking the human idea-creation process. Instead of only retaining final AI outputs, companies are advised to document the full end-to-end process of human idea development, such as early sketches, prompt history, input data, technical specifications, interaction data, intermediate drafts and revisions, and design documents. Such materials may play a key role in demonstrating human contribution and control over the creative process during claims for IP protection.

**Reviewing IP Portfolios.** Conduct a comprehensive audit of the company’s current IP assets. Classify them into three categories: (i) traditionally human-made, (ii) AI-assisted (human-steered), and (iii) fully AI-generated. Ensure legal protectability, manage emerging regulatory risks, and maximize the commercial value, especially of the human-contributed IP.

### **CONCLUSION**

AI has transformed the way creative works are produced today. The question of the permissible extent of AI involvement remains an evolving issue both in Vietnam and globally. In this context, Vietnam has adopted a flexible and adaptive approach, reflecting the ongoing development of its legal framework on IP in response to rapid technological changes. Looking ahead, the legal implications of AI will require continued and careful consideration in future reforms, with the aim of both managing legal risks and fostering innovation.

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<sup>1</sup>Article 1.3 of IP Law 2025



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**For further information, please contact:**



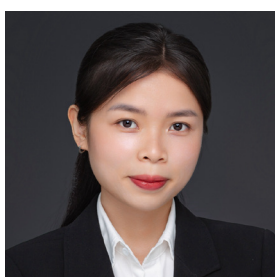
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