

legal+creative

AI + Your Agency

Your Legal Survival Guide (Today)...

Presented by:

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What We'll Cover Today

- The **types of IP protection** for GAI-created works – where we stand now
- The **fundamental “Business IP” issues** right now related to Generative AI
- **Practical legal steps marketers should take** today to protect themselves and limit risk/liability associated with using GAI and GAI-created work

The **types of IP protection** for GAI-created works – where we stand now...

Types of IP Protection: Copyright

US Copyright Office position is that only human-created works are entitled to copyright registration

- What about works that contain GAI-created and human created work?
- What about the argument that GAI is just a tool (like a camera) that enables creators to make work?

Zarya Of The Dawn.

Share

Actions

Registration Number / Date

VAU001480196 / 2022-09-15

Type of Work

Cancelled Registrations

Title

Zarya Of The Dawn.

Application Title

Zarya Of The Dawn.

Date of Creation

2022

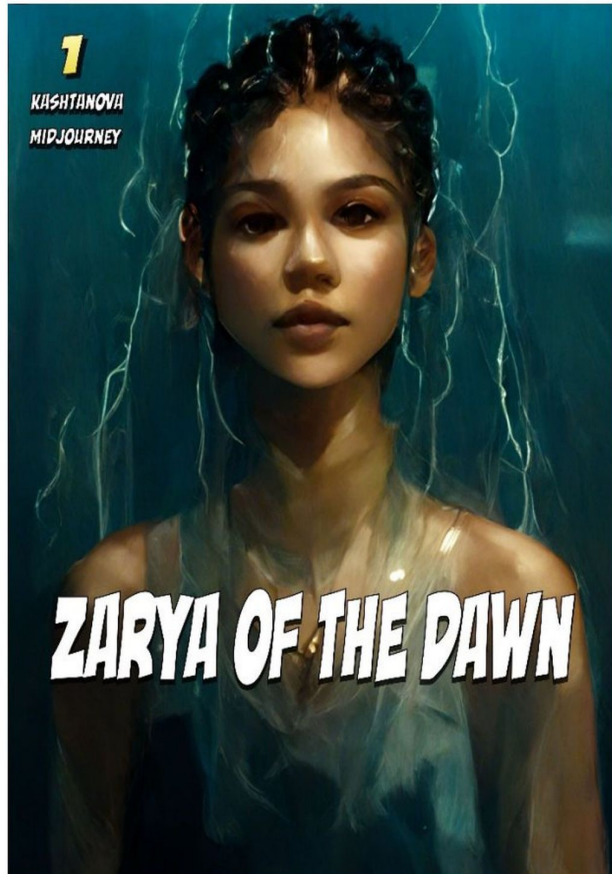
Copyright Claimant

Kristina Kashtanova, 1985-. Address: 347 West 57th Street, # apt 4b, New York, NY, 10019, United States.

Authorship on Application

Kristina Kashtanova, 1985-; Domicile: United States. Authorship: Comic book.

Rights and Permissions



Types of IP Protection: Patent

USPTO has the same position as the USCO on this – only human inventions are entitled to patent registration

Types of IP Protection: **Trademark**

Trademark rights are based on use in commerce to sell a product or service, not on novelty or originality

User of the TM (words or graphics) will still be responsible for avoiding infringement on other's trademarks for similar categories of products and services

Types of IP Protection: **Trade Secrets**

The GAI tool or platform itself likely has trade secret protection for its data sets (training and otherwise), codes and algorithms

Prompt engineering that includes trade secrets jeopardizes or destroys the trade secret status of the information – this has implications for sensitive data

The 2 fundamental “Business IP” issues
right now related to Generative AI...

Issue 1: Protecting the Inputs into GAI Tools

What are the Implications of using human-created and owned IP to train GAI models?

Liability for using the input IP – whose responsibility is it if infringement occurs?

Is the prompt strategy and are the actual prompts protectible IP themselves?



Issue: **Owning the Output from GAI Tools**

Can the output of GAI tools be legally owned and protected?

If protectible, who owns the output of GAI?

Does the ownership status of GAI-created work change if a human edits, adds to, or modifies it?

5 Practical legal steps marketers should take today **to limit risk** associated with using GAI and GAI-created work....

Step 1: Have Conversations with Key Parties

With your Clients

With your Vendors and Content Collaborators

With your Independent Contractors/Freelancers

With your Employees

Step 2: **Develop Policies + Procedures**

What GAI Tools are approved to use and what is the approval process?

What are the approved use cases for GAI – inspiration, first drafts, research, strategy?

What are human checkpoints on any final deliverables or work that consist of GAI created content?

Step 2: **Develop Policies + Procedures**

What information or questions do we seek or ask our vendors, our contractors or our clients?

What is our Firm policy on inputs into GAI – who approves what information is fed into prompt engineering?

What is our Firm's risk tolerance for using GAI to create work?

Step 3: Review Terms and Conditions of the GAI Tools You Use

What are the indemnification and liability limitation limits?

What is the GAI tool Owners position on ownership of the created output?

Step 4: Address GAI Issues in YOUR Service Agreements

Limitation of liability on use of assets created with GAI

Who owns the deliverables you create using GAI?

Do you disclose the specific GAI tools used to create the deliverables?

Who approves any work created before it gets deployed publicly?

Step 5: Proceed with Caution when Inputting Company Information

AVOID inputting business confidential or proprietary information into your prompt engineering if you truly want to maintain it as confidential



Questions?

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SESSION ON AUGUST 24!**

