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Generative Artificial Intelligence and Intellectual Property: Training, Authorship and the Fair Allocation of Value in African Creative Industries Under the Nigeria Copyright Act 2022

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ABSTRACT

Generative artificial intelligence (AI) is trained on the work of human creators and increasingly competes with it. This raises three connected copyright questions: whether training on copyrighted works infringes, whether AI outputs can be protected and how the value generated by AI should be shared. For African creative industries, notably Nigerian film and music, the questions are acute, because creators have long struggled to capture the value of their work while states also seek to build domestic AI capability. Existing scholarship tends to address training and output separately, leaves the allocation of value implicit and has given limited attention to Nigeria. This study addresses those gaps. Its objectives were to examine the three questions comparatively, to evaluate the position of the Nigeria Copyright Act 2022 and to propose reforms suited to Nigeria and other African states. The study adopted a doctrinal and normative research design with a comparative element. It analysed primary legal sources, including the Nigeria Copyright Act 2022, the Berne Convention and TRIPS Agreement, European Union, United Kingdom and Japanese legislation and leading United States decisions, together with a purposive sample of 28 peer-reviewed journal articles published between 2023 and 2026, each verified against its Crossref publisher record and screened for retractions. The analysis finds that the three questions are interdependent and that answering any one in isolation produces outcomes that are unfair to creators or obstructive to innovation. Nigerian law is at once too restrictive for domestic developers, because its exceptions do not clearly cover training, and too weak against foreign extraction of Nigerian works. It also contains no mechanism for sharing AI's value with creators. The study recommends a conditional text and data mining exception tied to lawful access, a machine-readable opt-out and transparency about training data; a statutory right to equitable remuneration administered through reformed collective management organisations; retention of the human authorship requirement; supplementary protection for voice, likeness and traditional cultural expressions; and regional coordination under the African Continental Free Trade Area.

Keywords: generative artificial intelligence; copyright; text and data mining; authorship; remuneration

Generative Artificial Intelligence and Intellectual Property: Training, Authorship and the Fair Allocation of Value in African Creative Industries Under the Nigeria Copyright Act 2022

1. INTRODUCTION

Generative artificial intelligence (AI) is built from the work of others. Large language models learn from books, articles and web pages; image generators from photographs and paintings; music generators from recorded songs. Their outputs can now rival, and in some markets replace, the human creativity on which they were trained. This combination of dependence and substitution sits at the heart of the copyright disputes that have multiplied since 2023. Authors, artists, musicians and publishers have sued AI developers in the United States, the United Kingdom and Europe, and legislators have begun to respond, most notably through the European Union's Artificial Intelligence Act.

Three questions recur in these disputes. The first is whether training a model on copyrighted works without permission infringes copyright. The second is whether the outputs of a generative model can themselves be protected, and if so who owns them. The third, less often asked directly but present behind both of the others, is how the value generated by AI should be shared between those who build the models, those who use them and those whose work made them possible.

For Africa these questions take a particular form. African creative industries have grown remarkably. Nigerian film, known as Nollywood, is among the most prolific in the world, and Nigerian popular music, especially the genre known as Afrobeats, has achieved global reach (Adedeji, 2023). Yet African creators have long struggled to capture the value of their work, owing to weak enforcement, piracy and contracts that favour intermediaries. Generative AI threatens to deepen that pattern. Models trained largely by foreign firms may absorb African works without permission or payment, generate imitations of African styles and compete with African creators in their own markets. At the same time, African states want to build domestic AI capability, and overly restrictive copyright rules could obstruct that aim (Odeh, 2025).

This article develops a normative framework for the three questions and applies it to Nigeria, whose Copyright Act 2022 replaced the Copyright Act of 2004 and modernised the regime in several respects but was drafted before generative AI became widespread. It argues that the three questions are connected, that each should be answered with the fair allocation of value in view, and that Nigeria should adopt a conditional training exception tied to transparency and remuneration, maintain a human authorship requirement and strengthen collective management.

2. LITERATURE REVIEW

2.1 CONCEPTUAL REVIEW

Training refers to the process by which a machine-learning model adjusts its internal parameters by processing large datasets. Training usually involves making copies of works, at least temporarily, in order to process them. Text and data mining (TDM) is the broader category of automated analysis of text and data to identify patterns, trends and correlations, of which AI training is one form. Output refers to the text, image, sound or video that a trained model generates in response to a prompt.

Authorship is the legal status of the person who creates a work and in whom copyright first vests. In most copyright systems, authorship and originality are linked: a work is original if it reflects the intellectual creation or skill and judgement of its author. Value, as used here, refers to the economic benefits generated by AI, including the revenues of developers, the productivity gains of users and the market losses or gains experienced by creators. The fair allocation of value is the normative question of how those benefits and burdens should be distributed.

2.2 THEORETICAL REVIEW

Two justifications for copyright frame the analysis. The utilitarian or incentive theory holds that copyright exists to encourage the creation and dissemination of works by giving creators a limited exclusive right to exploit them. On this view, the

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question is whether a given rule increases or decreases the overall production of valuable works. Peukert and Windisch (2025), surveying the law and economics of copyright in the digital age, show that the empirical evidence on how copyright affects creation is more mixed than incentive theory sometimes assumes. Applied to AI, incentive theory cuts both ways. Free access to training data encourages AI innovation; but if AI substitutes for human works without compensating their creators, it may reduce the incentive to create the very works on which future models depend.

The second justification is based on the creator's personality and labour. On this view, a work is an expression of its author, and the author has a claim to control and benefit from it that is not reducible to incentives. This justification grounds the human authorship requirement and explains why many legal systems resist protecting outputs that no human authored. Mazzi (2024) draws on philosophical foundations of copyright, including the protection of collage, to examine whether text prompts and AI outputs can meet the originality standard. Kucharzyk et al. (2026) argue that the deeper problem of machine creativity for copyright is epistemic, concerning how creative contributions are attributed, and that neither granting nor denying protection solves it.

To these, the article adds a distributive lens. Generative AI concentrates value in a small number of firms, mostly in the United States and China, while drawing on the work of creators worldwide. Salami (2024) describes a form of digital colonialism in which foreign firms control digital infrastructure and extract data from Africa, and Addaquay (2026) applies a related idea of sonic data coloniality to generative AI music produced from African prompts. Whether or not one accepts the colonial framing, the distributive question is unavoidable: copyright rules on training and output determine who captures the value AI creates.

2.3 EMPIRICAL REVIEW

On training, the literature divides between jurisdictions with open-ended exceptions and those with specific ones. In the United States, the question turns on fair use, and courts in 2025 began to address it. Lucchi et al. (2026) note that the fair use analysis, especially its market effects factor, remains unresolved for generative AI and argue that any exception must respect the three-step test in international copyright, which requires that exceptions not conflict with the normal exploitation of works or unreasonably prejudice the legitimate interests of right holders. Blanke (2026) argues that the disputes are best resolved through the foundational building blocks of copyright doctrine, including originality, fair use and authorship. In the European Union, the Directive on Copyright in the Digital Single Market contains a TDM exception that permits commercial mining unless the right holder has reserved their rights, and the AI Act requires providers of general-purpose AI models to put in place a policy to comply with Union copyright law, including such reservations, and to publish a sufficiently detailed summary of the content used for training (Peukert, 2024; Guadamuz, 2025). Bonadio et al. (2026), analysing the first referral to the Court of Justice on generative AI, argue that training as such does not reproduce protected expression and that, even if it did, the TDM exception would authorise it in the absence of a valid opt-out. Dermawan (2024) suggests that EU member states could learn from Japan's broad exception for uses that do not involve enjoyment of the work's expression, while Thongmeensuk (2024) argues that copyright exceptions need rethinking to balance innovation and protection.

On Nigeria, Odeh (2025) finds that the Copyright Act 2022 permits only fair dealing and transient or incidental reproductions for limited technological purposes, which is unduly restrictive for algorithmic training. Odeh recommends a bespoke TDM exception tailored to Nigeria's needs and argues that it can be designed to comply with the three-step test.

On outputs, the leading jurisdictions diverge. In the United States, the Copyright Office has declined to register works produced by AI without sufficient human authorship, and the courts have upheld the human authorship requirement; Al-Sharieh (2025) comments on the appellate decision in *Thaler v Perlmutter* (2025), which upheld the refusal to register a work listing an AI system as its sole author. Chinese courts have recognised copyright for AI users who made a creative contribution through prompts and parameter selection. Sun and Zhou (2026) and Xu and Xu (2025) compare the two

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positions, the former proposing a model of collaborative human–AI authorship and the latter a tiered model offering strong, weak or no protection depending on human control. Takeuchi (2025) examines whether Japan should adopt the United Kingdom's rule protecting computer-generated works by vesting authorship in the person who made the arrangements for their creation. In South Africa, whose copyright statute contains a similar computer-generated works provision, Karjiker and Rousseau (2025) analyse its application to generative AI and Singh (2025) asks whether AI-produced works can satisfy the requirements of originality and authorship. Shonubi (2026) argues that prevailing frameworks of authorship are built around Western, human-centred models ill-suited to the diversity of creative collaboration across the world's creative industries.

On value, Senftleben (2023) argues that because generative AI will substitute for human creations and reduce authors' income, copyright law could introduce a levy on AI output to fund equitable remuneration. Liu (2026) compares remuneration mechanisms in the United States, the European Union and China and proposes replacing exclusivity with remuneration rights, collective management and transparency obligations. Samuelson (2026) assesses the feasibility of collective licensing of training data and identifies serious practical obstacles, while Smith (2025) draws on existing licensing practice to argue that licensing for AI is possible. In Africa, Mareka (2025) considers copyright policy options for Botswana and South Africa that would compensate artists whose work feeds generative AI, and Itanyi (2024) addresses the compensation gap AI creates for Nollywood. Azeez and Adeate (2024) consider how African trust norms bear on gathering data for generative AI. What remains missing is an integrated framework that connects training, output and value and applies it to a major African creative economy. This article seeks to supply it.

3. MATERIALS AND METHODS

The study adopts a doctrinal and normative research design with a comparative element. It does not collect primary empirical data. Doctrinal analysis establishes the positions of Nigerian, United States, European Union, United Kingdom, Japanese, Chinese and South African law on the three questions. Normative analysis evaluates those positions against the aims of copyright, namely incentive, recognition of creators and fair distribution, and against Nigeria's dual interest in protecting its creative industries and building domestic AI capability.

Two kinds of material were analysed. The first comprised primary legal sources: the Nigeria Copyright Act 2022; the Berne Convention and the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights, which contain the three-step test; the EU Directive on Copyright in the Digital Single Market and the AI Act; the United Kingdom's Copyright, Designs and Patents Act 1988; Japan's Copyright Act; and leading judicial decisions from the United States. These are listed after the reference list. The second comprised a purposive sample of 28 peer-reviewed journal articles published between 2023 and 2026, identified through Google Scholar, Crossref, Wiley, ScienceDirect, Springer and the databases available through a university library, including Sabinet and Juta for South African sources.

Each article was verified against its Crossref publisher record for authorship, title, journal, volume, issue, pagination or article number and digital object identifier, and screened for retractions, corrections and expressions of concern. No retracted or corrected article was used. Articles without an available abstract are cited only for propositions evident from their titles and metadata.

The analysis proceeded in three steps. First, each of the three questions was examined across the comparative jurisdictions. Second, Nigeria's position under the Copyright Act 2022 was established and evaluated. Third, reform options were derived and assessed against the normative criteria and the Nigerian context.

4. RESULTS AND DISCUSSION

4.1 RESULTS

Table 1 summarises the comparative positions on the three questions and Nigeria's position under the Copyright Act 2022.

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Table. 1. Comparative positions on the three copyright questions and the Nigerian position

Question	Leading comparative positions	Nigeria Copyright Act 2022
Training on copyrighted works	United States: fair use, decided case by case; European Union: mining exception with opt-out and transparency duties; Japan: broad exception for non-expressive use	Only fair dealing and transient or incidental copies; no specific exception; little reach over training abroad
Protection of outputs	United States: human control of expression required; China: creative prompting may suffice; United Kingdom and South Africa: works made by computer vest in the person who arranged their making	Protection where sufficient effort gives an original character; no rule for works made by computer
Sharing of value	Private licensing deals with large right holders; collective licensing and output levies proposed but not adopted	No mechanism; outcome left to bargaining power

On training, the analysis shows that Nigerian law is at once too restrictive and too weak. It is too restrictive because, as Odeh (2025) shows, the Act's exceptions do not clearly cover the large-scale copying involved in training, so a Nigerian developer who trains a model on Nigerian works without licences takes a legal risk. It is too weak because the Act's territorial reach does not extend to training conducted abroad, so foreign developers who train on Nigerian works outside Nigeria face little practical constraint from Nigerian law. The combination is the worst of both worlds: domestic innovation is discouraged while foreign extraction continues.

The comparative jurisdictions offer three models. The first is open-ended fair use, as in the United States, where courts weigh the purpose of the use, the nature of the work, the amount used and the effect on the market. The outcome depends heavily on the facts and on how courts assess market harm; two federal judges in the Northern District of California reached different emphases in 2025, one stressing the transformative character of training while refusing to excuse the copying of pirated books (*Bartz v Anthropic PBC*, 2025), and the other the risk that AI output would dilute the market for human works (*Kadrey v Meta Platforms, Inc.*, 2025). The second is a specific TDM exception with an opt-out, as in the European Union, which permits training unless right holders reserve their rights and couples this with transparency duties for model providers. The third is a broad exception for non-expressive uses, as in Japan, which permits training for purposes other than enjoying the expression of the works. Each model gives developers more certainty than Nigerian law does, but each distributes value differently. Fair use leaves creators to litigate; the opt-out gives them a choice but places on them the burden of exercising it; the broad exception gives them little.

On outputs, the analysis shows a broad international convergence on the principle that some human authorship is required, but divergence on how much. The United States demands that a human determine the expressive elements of the work, which prompts alone rarely do. China has accepted that iterative prompting and selection can suffice. The United Kingdom and South Africa protect computer-generated works by attributing authorship to the person who made the necessary arrangements, though how that rule applies to generative AI is uncertain (Karjiker & Rousseau, 2025; Takeuchi, 2025). The Nigerian Act protects works on which sufficient effort has been expended to give them an original character and contains no provision for computer-generated works. Its position on AI output therefore depends on whether the human user's effort meets that threshold.

On value, the analysis shows that none of the comparative jurisdictions has yet established a

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mechanism that reliably channels a share of AI's value to the creators whose works trained it. Licensing deals have been concluded between developers and large publishers and music companies, but these benefit right holders with bargaining power, not individual or small creators. Collective licensing faces obstacles of scale, identification of works and valuation (Samuelson, 2026). Levies on AI output have been proposed but not adopted (Senftleben, 2023). African creators, who are mostly independent, often poorly organised and rarely party to licensing deals, are least likely to benefit from any of the existing models.

These findings lead to a set of reform options for Nigeria, summarised in Table 2.

Table. 2. Reform options for Nigeria

Reform	What it does	Question addressed
Conditional training exception	Permits training on lawfully accessed works, subject to opt-out and published training summaries	Training
Equitable remuneration right	Pays creators through collective management when commercial models are exploited in Nigeria	Value
Human authorship standard	Protects human creative choices in AI-assisted works; machine output enters the public domain	Output
Supplementary protection	Guards voice, likeness and traditional cultural expressions against imitation	Value and output
Collective management and regional coordination	Improves governance and registries; coordinates under the AfCFTA	All three

The first option is a conditional TDM exception for AI training. Training would be permitted for both research and commercial purposes, subject to three conditions: the developer must have lawful access to the works, must respect machine-readable reservations of rights by creators who wish to opt out, and must publish a summary of training data sufficient to allow creators to know whether their works were used. This gives Nigerian developers legal certainty while giving creators both choice and

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information. Following Lucchi et al. (2026) and Odeh (2025), such an exception can be designed to comply with the three-step test, especially if combined with remuneration.

The second option is a statutory remuneration right. Where commercial models are trained on works under the exception, or where AI outputs are commercially exploited in Nigeria, creators would be entitled to equitable remuneration, collected and distributed by collective management organisations. Senftleben (2023) and Liu (2026) develop versions of this idea. Its advantage is that it does not depend on individual bargaining. Its difficulties lie in valuation, in reaching foreign developers and in the capacity of collective management organisations to distribute fairly.

The third option concerns outputs. The study recommends that Nigeria maintain the requirement of human authorship and not adopt a computer-generated works provision. Works in which a human made creative choices, through selection, arrangement, editing or detailed iterative prompting, should be protected to the extent of those choices. Purely machine-generated outputs should fall into the public domain. This approach preserves the link between copyright and human creativity, avoids granting exclusive rights to developers or users for content they did not create and prevents the flooding of the copyright system with machine output. Xu and Xu's (2025) tiered model offers a useful guide to how courts might assess the degree of human contribution.

The fourth option concerns protection against imitation. Generative AI can produce works in the style of particular artists or imitate their voices and likenesses. Copyright protects expression, not style, so it offers little remedy. Nigeria should consider supplementary protection through personality rights or unfair competition law for voice and likeness, and through the protection of traditional cultural expressions, which African creative industries draw on extensively.

From the analysis the study derives four propositions.

Proposition 1. *The three copyright questions raised by generative AI, namely training, output and value, are interdependent, so that answering any one of them in isolation produces distributive outcomes that are unfair to creators or obstructive to innovation.*

Proposition 2. *The Nigeria Copyright Act 2022 is simultaneously too restrictive for domestic AI developers and too weak against foreign extraction of Nigerian works, and its lack of a specific training exception leaves the allocation of value to be decided by bargaining power.*

Proposition 3. *A conditional training exception, tied to lawful access, opt-out, transparency and remuneration administered through collective management, offers a more balanced model for Nigeria than either open-ended fair use or a broad non-expressive use exception.*

Proposition 4. *Nigeria should retain human authorship as the basis of copyright in AI-assisted works and should protect against AI imitation of voice, likeness and traditional cultural expressions through supplementary regimes rather than by extending copyright to machine output.*

4.2 DISCUSSION

The first finding is that the three questions should be answered together. The literature tends to treat training and output separately, and the value question is often left implicit. But the answers interact. If training is freely permitted and outputs are unprotected, developers capture most of the value while creators bear the costs of substitution. If training requires licences and outputs are protected, large right holders and developers may capture value while small creators and users are excluded. Liu's (2026) dual focus on originality and platform power and Senftleben's (2023) remuneration proposal both point towards an integrated approach in which permission to train is linked to an obligation to share value. The framework offered here makes that link explicit.

The second finding concerns Nigeria's position. A common recommendation in the African literature is to liberalise training to support domestic AI (Odeh, 2025). The recommendation has merit, because restrictive rules burden local developers who lack the resources to license at scale. But liberalisation without conditions would mainly benefit foreign developers, who already train on African works with little constraint. Mareka (2025) reaches a similar conclusion for Botswana and South Africa, arguing

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that policy must balance innovation with compensation for artists whose work feeds generative AI. The conditional exception proposed here aims to achieve both: domestic developers gain certainty, while transparency and remuneration duties apply to any model commercially exploited in Nigeria, regardless of where it was trained. Linking obligations to the market rather than the place of training is the main way a country with limited extraterritorial reach can influence foreign firms.

The third finding concerns authorship. The convergence on human authorship is welcome, but the precise threshold matters. The United States approach, which demands that a human control the expressive elements, may deny protection to genuinely creative human–AI collaboration. The Chinese approach, which accepts prompting and selection, risks granting protection too easily. The Nigerian standard of sufficient effort to give an original character is flexible enough to accommodate a middle position, provided courts focus on the creative choices made by the human rather than the mere fact of prompting. Shonubi's (2026) critique of Western, human-centred models of authorship deserves attention here. African creative traditions often involve collective and iterative creation, and the law should be careful not to deny protection to forms of collaboration simply because they do not fit the image of the solitary author.

The fourth finding concerns collective management. Any remuneration scheme depends on institutions able to identify works, collect revenues and distribute them fairly. In Nigeria, collective management of music rights has been marked by disputes over approval and representation, and Adedeji (2023) describes the difficulties that copyright enforcement poses for independent and emerging artists. A remuneration right administered by weak or contested institutions would deliver little to creators. Reform of collective management, including transparency, governance standards and digital registries of works, is therefore a precondition rather than an afterthought.

It might be objected that a remuneration right would deter AI investment in Nigeria. The concern is understandable but likely overstated. Developers already accept transparency obligations in the European Union, and licensing agreements show that payment for training data is commercially feasible (Smith, 2025). The obligations proposed here would be modest and proportionate. A more serious objection is that Nigeria cannot enforce obligations against foreign firms. That is partly true, and it is why the study links obligations to the commercial exploitation of models in Nigeria and recommends regional coordination through the African Continental Free Trade Area and its Protocol on Intellectual Property Rights. A market of African scale offers far more leverage than any single state.

A further objection is that protection of style, voice and traditional cultural expressions would restrict cultural exchange. Protection should indeed be calibrated, distinguishing inspiration from imitation and allowing communities to decide how their cultural expressions are used. But the risk that AI will produce endless imitations of African music and film, generated abroad and sold back to African audiences, is real. Without some protection, the creators whose styles define these industries may find themselves competing with machines trained on their own work.

The analysis has limitations. It is doctrinal and normative and does not measure the actual use of African works in training datasets or the economic effects of AI on Nigerian creators. Several of the comparative positions remain unsettled, including pending litigation in the United States and the first referral on generative AI before the Court of Justice of the European Union. Empirical research on Nigerian creators' experiences and on the operation of collective management would strengthen the framework.

5. CONCLUSION AND RECOMMENDATION

Generative AI raises three connected copyright questions: whether training infringes, whether outputs can be protected and how value should be shared. The Nigeria Copyright Act 2022 answers none of them clearly. Its exceptions are too narrow for domestic AI development, its reach too limited to constrain foreign extraction and its framework silent on the allocation of value.

The study makes five recommendations. First, the National Assembly should amend the Copyright Act 2022 to introduce a TDM exception permitting AI

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training on lawfully accessed works, subject to a machine-readable opt-out for right holders and a duty to publish a summary of training data for models commercially exploited in Nigeria. Second, the Act should establish a right to equitable remuneration for creators whose works are used to train commercially exploited models, administered through approved collective management organisations. Third, the Act should retain the human authorship requirement, and the Nigerian Copyright Commission should issue guidance that AI-assisted works are protected to the extent of human creative choices, while purely machine-generated output is not. Fourth, the legislature should consider protection of voice and likeness against AI imitation and strengthen the protection of traditional cultural expressions. Fifth, the Nigerian Copyright Commission should reform the governance of collective management organisations, including transparency and digital registries, and Nigeria should pursue regional coordination under the African Continental Free Trade Area's Protocol on Intellectual Property Rights.

6. CONTRIBUTION TO EXISTING KNOWLEDGE

The study makes three contributions. First, it offers an integrated framework that treats training, output and the allocation of value as interdependent questions, showing that answering any one in isolation produces unfair or obstructive outcomes. Second, it provides a comparative analysis of the Nigeria Copyright Act 2022 against the leading models, showing that Nigerian law is both too restrictive for domestic developers and too weak against foreign extraction. Third, it proposes a reform agenda tailored to Nigeria and adaptable to other African states, combining a conditional training exception, a remuneration right, a human authorship standard and supplementary protection for voice, likeness and traditional cultural expressions.

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