

CONFERENCES AND REPORTS

REPORT FROM THE INTERNATIONAL CONFERENCE ON COPYRIGHT ASPECTS OF GENERATIVE ARTIFICIAL INTELLIGENCE

Faculty of Law, Charles University in Prague, 27 November 2024

On 27 November 2024, an international scientific conference on “Copyright Aspects of Generative Artificial Intelligence” was held at the Faculty of Law of Charles University in Prague, held and organised in terms of concept and programme by the Centre for Intellectual Property Law of the Faculty of Law of Charles University (CIPL) under the auspices of its Dean, **Professor Radim Boháč** and Vice-Dean for Science, Research and Editing, **Professor Michal Tomášek**.



*Professor Karel Knap, leading theorist of intellectual property rights
Photo: From the “Present Problems of Copyright and Industrial Property”,
Charles University in Prague, 1989*

The academic event was organised in honour of Professor Karel Knap, a leading theoretician of intellectual property rights, on the occasion of anniversaries associated with him. This honour corresponded with the selection of highly topical, debated and on a daily basis evolving issues of artificial intelligence (AI), as well as the selection of contributions. Considering the breadth of legal aspects of AI, a narrower focus on copyright aspects was chosen in relation to the most widely used generative AI, promising a lively expert discussion. The uniqueness of the conference lays not only in the chosen topic, but also in the exceptional quality of the invited speakers with expertise in relation to intellectual property rights at the doctrinal level and in practice. The conference held was

thus the most appropriate platform for presenting the views of leading experts, both in the form of contributions in the theoretical part and in the discussion part.

Participants of the conference were academics from Czech and Slovak universities, as well as representatives of the professional public. Conceptually, the individual parts of the conference, the papers and their order were chosen to be balanced and mutually thematically-related.

After a brief introduction by the head of the CIPL **Dr. Petra Žikovská**, Dean **Professor Radim Boháč** took the floor to welcome the participants and after emphasising the importance and contribution of the CIPL, he opened the conference.

The programme of the conference itself was divided into three parts – I. Tribute to Professor Karel Knap, II. Theoretical part and III. Discussion part.

The first part of the memorial was dedicated to the memory of Karel Knap by colleagues from *alma mater* (**Professor Alena Macková**, **Dr. Irena Holcová**, **Dr. Michal Růžička**, **Dr. Vladimír Rott**) or from the University of Economics (**Professor Martin Boháček**). At the same time, the conception of this part also enabled to look back at other colleagues or collaborators of Karel Knap at different times. The tribute and the conference was also a tribute to other colleagues.

The second theoretical academic part was moderated by **Dr. Petra Žikovská** and **Dr. Irena Holcová**, who presented the introductory paper “Quo vadis? Karel Knap and his influence on copyright law in the era of generative artificial intelligence (selected copyright and technical aspects)” with the contribution of **Dr. Milan Dang** (in relation to the technical aspects of the issues and life cycle of generative artificial intelligence). Her contribution was after reflection focused on the copyright aspects of AI with regard to the theme and purpose of the conference and linking the current considerations with the views of Professor Karel Knap (Quo vadis of contemporary copyright law, in *Current Issues of Copyright Law*, 1986), where one can still draw on Knap’s work (author’s work, copyright individuality, components of author’s works – general fund vs. copyright representation) also in relation to the conference topic. It included a call for active search for answers and further direction and enforceability of copyright at international, European and national level in the era of AI, where the course and outcome of the conference depends on all participants. Just as it is up to them to assess whether and to what extent the copyright institutes still fulfil their role today, whether they require changes, modifications or replacement by new ones. This included considerations *cui bono* in relation to copyright law at different stages of AI development (for AI training incl. TDM exceptions or pastiche licenses), possible copyright interference, hence unfair competition, advantages and disadvantages, comparison of human learning vs. AI learning, communization (common pool - free works or unprotected elements) vs. democratization (public licenses) with emphasis on protecting the rights of authors of pre-existing works. All while emphasizing a balanced approach that respects the rights and interests of authors and other stakeholders, including providers and users, ethical considerations and technological developments, and possible solutions such as the creation of fair compensation for use and regulation under the AI Act, the DSA and respect for the personal rights of authors. The implications of AI as a tool for creation were also mentioned, where the user must be a determining person in the creation process in order for an individual work of authorship to emerge, not just give the impetus for the creation of the work. The paper was conceived mainly as a starting point for all subsequent papers, in order to give the necessary space to colleagues with regard to the announced focuses.

This was followed by a presentation by **Dr. Zuzana Adamová**, Director of the Institute of IPR and IP from the Faculty of Law of the University of Trnava, on the topic “Clash of Intellectual Property Protection and Artificial Intelligence”. In her introduction, she outlined Professor Knap’s likely approach to AI, in particular a balanced approach to legal regulation in a way that addresses AI-related challenges but without hampering innovation. This was the spirit of her entire contribution, i.e. highlighting both the positives and negatives of AI, which can be used to protect and enforce both copyright law and intellectual property law nebo uvést zkratky CL and IPL, including giving specific

examples, as well as their violations, including the general regulation of the AI Act and the obligations of providers of general AI models.

The next speaker was **Associate Professor Pavel Koukal**, Head of the Department of Civil Law at the Faculty of Law of Masaryk University in Brno, with his contribution “Karel Knap’s contribution to the protected and unprotected component of copyright works”. He focused on a general overview of Knap’s extensive scholarly work in all disciplines, in various languages, on the concept of the author’s work with a focus on the uniqueness of the work and the protected and unprotected components of the author’s work, the general fund and its copyright representation. His contribution, focused mainly on the work (and the work), was clearly in favour of increasing the reputation of the professor Karel Knap, his legacy, and thus the conference (with the subsequent active participation of a number of attendees after the conference in completing the overview of Knap’s work).

In the afternoon programme, **Dr. Jiří Čermák**, an independent attorney at law, gave a presentation on “The TDM exception and the reservation from it”, focusing on the EU and Czech legislation, the USA or Japan, AI Act and Codes of Practice, the requirement of the legality of the source, the form and nature of the reservation from the TDM exception and its scope (work or reproduction of the work, remuneration/compensation for TDM in relation to the costs of development and operation of AI vs. expected remuneration). These considerations were followed up by Dr. Petra Žikovská for the CPDV with an analysis of the pending court case *Kneschke vs. LAION* [27.9.2024(Landgericht-Hamburg,310O227/23)] including considerations on the application of the three-step test, lawful access and reservation of rights.

Associate Professor Matěj Myška, Head of the Department of Law and Technology at the Faculty of Law, Masaryk University in Brno (MUNI), presented his concept focusing on prompts, originality, copyright and programming in his paper “Prompted Engineers: authorship of a computer programme and artistry”. He focused on (R)Evolution in programming and copyright (including considerations of the relationship between conceptual preparatory materials and prompts) and the resulting conclusions. Then, **Damián Palašta, MSc**, a PhD student at the Institute of Department of Law and Technology at MUNI, focused on the topic “Copyright Litigation in the US, EU and Systematics of Exceptions for Training Machine Learning on Copyrighted Data in the US, EU and Japan”, including historical aspects, lawsuits of rights holders vs. AI companies [*GEMA vs. OpenAI* in Germany, overview of litigation in the US, including the most common claims at each stage of direct copyright infringement or vicarious infringement], including an overview of major decisions and applicability of Fair Use.

The following contributions by two CIPL PhD students were focused on the modification of the EU AI Act. **Jaroslav Kuba, MSc** in his presentation “Legal Framework for Artificial Intelligence: AI Act and Copyright Law” focused on the AI Act (Regulation (EU) 2024/1689), including definitional framework, obligations of providers of generic AI models, scope, enforcement. The topic was continued by **Václav Hodonický, MSc** with his presentation “AI Act: the duty of transparency and interaction with copyright law” focusing on the duty of transparency, its subjects, content and purpose, enforceability and Codes of Practice.

The second, academic, part of the conference was concluded with a presentation by **Associate Professor Renáta Bačárová** from the Department of Civil Law at the Faculty of Law of the P. J. Šafařík University in Košice on the topic “Copyright and Artificial Intelligence: Requirements for the legality of digital content”, including a comparison of works vs. AI creations, authorship of AI, considerations of (in)applicability in relation to exclusive personality and property rights of copyright, considerations of possible compensation for authors for the use of their works for AI training, legality of digital content with a focus on training and input data, legality of the source, as well as options for protecting AI outputs.

In the third part, a very interesting and fruitful discussion took place not only on the presented contributions, but also on other topical issues, which, like the previous parts, was held in a highly

collegial spirit. Discussion papers were presented by both active participants of the conference (e.g. **Associate Professor Pavel Koukal**, **Associate Professor Matěj Myška**, **Dr. Jiří Čermák**, **Dr. Irena Holcová**, **Dr. Petra Žiková** in relation to the reactions to their papers or **Dr. Zuzana Císařová**) and participants e.g. from the Ministry of Culture (**Dr. Adéla Faladová** in relation to the AI Act, the AI Office and the draft Code of Practice), collective administrators OSA (**Dr. Roman Strejček**, Director and **Dr. Kateřina Procházková** in relation to the role of collective administrators in the AI era, including licensing in relation to the opt-out from TDM and possibly compensations), Intergram (**Václav Hodonický, MSc**), ALAI (**Dr. Rudolf Leška** in relation to the lawsuit GEMA vs. OPEN AI and the mandate of collective administrators to opt-out) or other participants also from the ranks of practising lawyers (**Dr. Jakub Menčl** on the relationship between the interest of states in copyright protection of works in the context of AI training over the interest of progress in the EU, **Klára Hrabáková, MSc** on the analysis of the Kneschke decision or **Anna Šerých, MSc** in response to the rejection of the US litigation in relation to the draft AI Liability Directive).

The conference was evaluated very positively by the participants as perfectly prepared with a fully balanced, not only professionally interesting, but also socially and humanly very pleasant atmosphere.

The conference provided an exceptional platform to reflect on the impact of AI on copyright and exchange of views, including new perspectives and solutions in this area. At the same time, it has created a wide space for discussion and there is no doubt that it has made a significant contribution to the scientific community.

It highlighted the important challenges faced by countries around the world in their efforts to striking a balance between progress and the rights and interests of authors. Its contribution lies in the fact that it brought together not only legal scholars but also practitioners and policy makers from the Czech Republic and Slovakia.

Presented papers will be published in the collective monograph *Current Issues in Copyright Law* “Tribute to prof. JUDr. Karel Knap, CSc.”, who introduced their publication 55 years ago.

Irena Holcová*

* Dr. Irena Holcová, author and assistant professor at the Centre for Intellectual Property Law, Faculty of Law, Charles University in Prague, Prague, Czech Republic. ORCID: 0000-0003-2074-0578. (Guarantor of the conference concept and scientific programme). The present report was created under the specific which she is also a guarantor research project of Charles University – programme “**Cooperatio**”, Research Area Civil Law and Private International Law.