

## Copyright protection for AI-generated works: Senate approves Italian bill on artificial intelligence

---

### Introduction

On March 20, 2025, the Senate approved in the first reading the Italian Bill on artificial intelligence (AI), initiated by the Government and delegating authority to the same (the “DDL”), which will integrate the Italian legislation also in compliance with the well-known “AI Act” (Regulation (EU) 2024/1689).

The DDL now moves to the examination by the Chamber of Deputies.

With reference to the protection of intellectual property rights, below the most relevant innovations will be outlined.

### I Copyright protection for works generated with the aid of AI

Article 24 of the DDL provides for some amendments to the Italian Law on Copyright, April 22, 1941, No. 633 (“LDA”) with the aim of clarifying the scope of copyright protection with reference to works generated with the aid of artificial intelligence.

The prevailing jurisprudential and doctrinal orientation tends to exclude works created *solely* and *exclusively* by AI systems from the scope of copyright protection, because they lack the fundamental requirement of “creativity”, in accordance with EU and Italian copyright principles.

The DDL provisions aim to clarify the possibility of protecting works created with the *aid* of artificial intelligence.

Article 1 of the LDA would therefore be amended and supplemented in its first paragraph by introducing the word “*human*” referred to “*works of the mind*” and the words “*even when created with the aid of artificial intelligence tools, provided they constitute the result of the author’s intellectual work*” after the words “*form of expression*”.

## Art. 1.1., LDA

*“Works of the **human** mind having a creative character and belonging to literature, music, figurative arts, architecture, theatre or cinematography, whatever their mode or form of expression **even when created with the aid of artificial intelligence tools, provided they constitute the result of the author’s intellectual work**, shall be protected in accordance with this Law”.*

In light of the clarification and integration proposed, it thus becomes clear the intention to deny copyright protection for all those works in which AI tools are not merely auxiliary means used by the authors to achieve the creation of their works, but are rather to be considered as the sole factors responsible for their generation, to such an extent as to exclude the relevance of the intellectual work of the author.

The legislative intent, therefore, appears to be in line with the emerging interpretative trends according to which copyright protection is solely reserved for works of the mind created by humans and/or in which the author has, in any case, provided a predominant contribution, corresponding to choices related to the development and training of the AI system or, more generally, to any form of control over its functioning.

This approach is also increasingly being affirmed overseas, as confirmed by a very recent decision of the United States Court of Appeals for the District of Columbia Circuit, which, on March 18, 2025, stated and reiterated that human creativity remains a fundamental requirement for obtaining copyright protection, thereby excluding the possibility that a work created exclusively through the use of AI systems can be protected under US copyright law. The appeal was filed by Stephen Thaler, scientist and founder of Imagination Engines, Inc., who had attempted to register a work of art created by his AI system “DABUS”, indicating the latter as the sole author of the work.

## II **Reproduction and extraction of texts and data from legally accessible works, using AI**

Another proposal of the DDL, also regulated by Article 24, concerns the introduction of Article 70-septies LDA, which would allow the reproduction and extraction of texts and/or data from works or other materials contained on the internet or in databases - to which legitimate access is allowed - through the use of artificial intelligence systems, including generative ones, in accordance with the provisions of Articles 70-ter and 70-quater LDA.

### **Article 70-septies, LDA**

*“Without prejudice to the provisions of the Berne Convention for the Protection of Literary and Artistic Works, ratified and made effective pursuant to the law of June 20, 1978, No. 399, reproductions and extractions from works or other materials contained in networks or databases to which one has legitimate access, for the purpose of text and data mining through models and systems of artificial intelligence, including generative AI, are permitted in accordance with the provisions of Articles 70-ter and 70-quater”*

The provision essentially aims to apply the so-called text and data mining exception for reproductions and extractions of materials/works protected by third-party copyright, using AI, essentially exempting them from respecting copyright law principles in the field of scientific research, and allowing them in other cases if the use of such material has not been expressly reserved by the relevant rights holder.

With regard to the respect and protection of copyright and neighboring rights, it could be useful to briefly recall here the obligations introduced by the AI Act for providers of AI systems, who are required, *inter alia*, to ensure that such systems comply with EU laws.

Specifically, providers of AI systems must comply with the provisions set forth under Article 4 of Directive (EU) 2019/790 (the ‘Copyright Directive’). The aforementioned article provides for the possibility for rightsholders to expressly reserve their rights relating to works and other protected materials – thus limiting the right to extract text and data – a possibility known as the ‘opt-out right’. The extraction and reproduction of data will therefore not be permitted if such use has been expressly excluded by the respective copyright holder.

Also with a view to enforcing compliance with copyright rules, AI system providers are required to comply with specific transparency obligations by making available to the public reports summarizing in detail the contents used for training generative AI (which must be sufficiently comprehensive to enable legitimate interest holders,

including copyright holders, to exercise their rights) and adopt a “copyright policy” as a measure of self-regulation and accountability.

## III Unlawful dissemination of AI-generated or altered content

Finally, we note that the Italian Penal Code would also be amended by the DDL, specifically by its Article 25, which proposes the introduction of Article 612-*quater*. This new article aims to penalize the unauthorized dissemination of content generated or altered through the use of artificial intelligence systems, which can harm the reputation, privacy, and dignity of individuals.

**Article 612-*quater*, Italian Penal Code**  
*“Unlawful dissemination of content generated or altered by artificial intelligence systems.*  
*Anyone who causes unjust harm to a person by transferring, publishing, or otherwise disseminating, without their consent, images, videos, or voices falsified or altered through the use of artificial intelligence systems and capable of misleading regarding their authenticity, shall be punished with imprisonment from one to five years. The crime is prosecutable upon complaint by the injured party. However, prosecution is initiated ex officio if the act is connected with another crime for which ex officio prosecution is required or if it is committed against a person who is incapacitated due to age or infirmity, or against a public authority because of the functions exercised”*

In conclusion, the initial approval of the DDL by the Senate represents a significant step towards the desirable adaptation of Italian legislation to the new challenges posed by technological innovation.

The DDL, which actually covers a wider range of topics related to artificial intelligence, also aims to define a position on copyright protection for works created with the aid of AI, while recognizing the value of human intellectual work, and to clarify the possibilities and limits of using works (online and on databases) through AI models and systems, once again demonstrating the centrality of IP issues in the field of AI, both in the input or training phase as well as in the final output.

---

## Contacts

### **Paolo Bertoni**

Of Counsel – Chiomenti  
Intellectual Property  
T. +39 02 72157679  
paolo.bertoni@chiomenti.net

### **Anna Gardini**

Of Counsel – Chiomenti  
Intellectual Property  
T. +39 02 721571  
anna.gardini@chiomenti.net

### **Sara Molina**

Counsel – Chiomenti  
Intellectual Property  
T. +39 02 72157476  
sara.molina@chiomenti.net

### **Giorgia Chizzali**

Associate – Chiomenti  
Intellectual Property  
T. +39 02 721571  
giorgia.chizzali@chiomenti.net

---