

AI and Copyrights under Japan's Copyright Act

Basic concepts of Japan's Copyright Act

- AI and copyrights: **“AI development or learning stage”** or the **“generation or utilization stage”** should be considered separately.

AI development/learning stage

※Article 30, paragraph 4 was introduced by amendment to Copyright Act in 2018

- Creating a data set for learning by collecting and reproducing copyrighted works as learning data
 - Developing AI (learning model) by using data set for learning
- ❑ **Acts of utilization that do not aim at the enjoyment of thoughts or sentiments** expressed in the copyrighted work for information analysis in the AI development may, in principle, be allowed without the permission of the copyright holder.
- ❑ However, if the utilization exceeds the “limit deemed necessary” or if the usage “unfairly damages the interests of the copyright holder,” this provision will not apply.

Generation/utilization stage

- Generating images etc. using AI
 - Uploading and making public AI-generated images, selling reproductions of generated images (illustrations, etc.)
- ❑ The **determination of copyright infringement** in the case of the uploading and making public of images generated by using AI or the selling of reproductions is considered **equivalent to regular copyright infringement**, excluding* utilization of such images recognized by the Copyright Act.
- *Personally generating images for one's own appreciation (reproductions for private use)
- ❑ If AI-generated images have **similarity with** (same or similar creative expression) and **dependence on** (created based on existing work) **existing images** (copyrighted works), **such acts are subject to criminal penalties, allowing copyright holders to claim damages and injunctions as copyright infringements.**

Future measures

- Prompt dissemination of these concepts through the seminars
- Together with IP law scholars, attorneys, creators and related industries, JCO is holding multiple discussions. Based on these discussions, JCO will further address and clarify the concerns of stakeholders

