Ethical Issues and Copyright of Visual Style in the Era of Generative AI: Challenges to Graphic Designers' Ownership Rights

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ABSTRACT

The emergence of generative artificial intelligence (generative AI), including Midjourney, Stable Diffusion and DALL·E, raises questions about the use of visual works as training data, the imitation of style, and the copyright position of graphic designers. This study examines three related but legally distinct issues: (i) the copying or use of works during model training, (ii) outputs that resemble a designer's visual style, and (iii) the copyright status of AI-assisted or AI-generated outputs. The study uses qualitative critical document analysis of Malaysia's Copyright Act 1987 [Act 332], selected court decisions, official U.S. Copyright Office reports and supporting academic and policy sources. It develops a three-layer analytical framework that separates input-stage copying, output-stage resemblance and output authorship. The documents indicate that visual style is not expressly recognised as a stand-alone exclusive right under the legal frameworks examined. Nevertheless, style-related disputes may involve copying protected expression, market effects, attribution, moral rights or misleading use of trade marks. The UK decision in Getty Images v. Stability AI is particularly limited: the principal UK training and output claims were abandoned, and the court decided the remaining secondary-infringement issue on its facts. In Malaysia, Act 332 provides relevant provisions but no specific statutory text or identified Malaysian judgment in this corpus resolves the legality of generative-AI training. The article therefore proposes transparency, licensing, attribution and AI-disclosure measures as policy options rather than existing legal duties. Because the study is document-based, it does not directly measure Malaysian designers' experiences.

Keywords: generative AI, copyright, visual style, graphic designers, moral rights

INTRODUCTION

Background and Context

The digital graphic design industry is undergoing major change with the emergence of Generative AI tools such as Midjourney, Stable Diffusion and DALL-E. These tools can produce complex images and visual elements within seconds based on text instructions (*prompts*), and have been used in design workflows from initial concepts to marketing assets. For companies and clients, they promise cost savings and efficiency. For graphic designers, they open up new opportunities while at the same time threatening their professional standing. The role of generative AI in the Malaysian creative industry has begun to attract scholarly attention (Johari et al., 2025).

An important question is how generative models are developed and what the relationship is between training data and the outputs produced. These systems are trained using large-scale datasets. LAION-5B, for example, is described by Schuhmann et al. (2022) as a dataset containing approximately 5.85 billion image-text pairs. In the litigation in Andersen v. Stability AI, the plaintiffs allege that their works were used without permission in the related data and model ecosystem; allegations in a pleading, however, are not the same as the court's final findings. Generative models can produce images with characteristics associated with a particular artist, such as colour palette, composition or visual technique. The ability to produce such stylistic similarity raises economic and ethical concerns, but stylistic similarity alone does not automatically prove copyright infringement. The

analysis must therefore distinguish the use of specific works in training from the resemblance of outputs to a designer's general style.

Legal responses differ by jurisdiction, facts and procedural stage. In the United States, the order in Andersen v. Stability AI, No. 3:23-cv-00201-WHO (N.D. Cal., 12 August 2024), allowed some claims to proceed at the pleading stage; it did not determine that the alleged infringements had been proven. Thaler v. Perlmutter concerns whether an autonomously generated work can qualify for copyright without a human author; the U.S. Supreme Court's denial of certiorari in March 2026 did not endorse the lower court's reasoning on the merits. In the United Kingdom, Getty Images v. Stability AI [2025] EWHC 2863 (Ch) did not determine whether the training at issue was lawful under UK copyright law: Getty abandoned its principal training and output claims during trial, and the court rejected the remaining claim that the model itself was an infringing copy for the purposes of secondary infringement. The U.S. Copyright Office has issued reports on digital replicas, copyrightability and generative-AI training, with Part 3 available as a pre-publication report at the time of this revision. In Malaysia, MyIPO's official legislation page continues to list the consolidated Act 332 text as updated to 30 June 2022, while a public consultation on proposed amendments ran from 3 July to 14 August 2026. The consultation and public reporting about a possible opt-out approach indicate policy development, not an amendment already in force (MyIPO, 2026; Bernama, 2026).

Problem Statement

The problem examined is not merely whether AI can produce images that resemble an artist's style, but also whether original works have been copied or used when building the model, how the outputs compete with the original works, and whether designers have practical channels to obtain consent, compensation or recognition. Allegations that works were used without permission must be proven according to the facts of each case; this article does not assume that all AI models use all works without authorisation. Nevertheless, the lack of clarity about data sources, options to withhold works from use, and compensation mechanisms raises governance questions that deserve assessment.

Copyright generally protects qualifying expression rather than ideas or general style in the abstract. Subsection 7(2A) of Act 332 excludes ideas, procedures, methods of operation and mathematical concepts as such. Section 13 sets out the owner's exclusive rights and statutory exceptions. Paragraph 13(2)(a) identifies fair dealing for purposes including research, private study, criticism, review and news reporting; subsection 13(2A) lists factors including the purpose and character of the dealing, the nature of the work, the amount used and the effect on the potential market. These factors require contextual assessment: the commercial purpose of a model developer may be relevant, but it does not by itself decide the question. Nor does the presence of a research purpose automatically make large-scale commercial training fair dealing. Malaysia's fair dealing framework should not be equated with the broader U.S. fair-use doctrine. Paragraph 13(2)(b), which refers to parody, pastiche and caricature, should also not be treated as a general exception for any output described as stylistic imitation. The official MyIPO consolidated text available for this study is updated to 30 June 2022, and the 2026 consultation had closed by the final source check; the consultation itself did not change the law. Within the sources reviewed, no Malaysian judgment specifically determining the legality of generative-model training was identified.

Human authorship must be distinguished from the legality of using existing works as training data. Under U.S. law, Thaler v. Perlmutter addresses a work claimed to have been generated autonomously without a human author; it does not establish that every AI-assisted work is unprotectable. The U.S. Copyright Office's Part 2 report explains that copyright may subsist in human-determined expressive elements, including sufficiently creative selection, arrangement or modification, depending on the facts. In Malaysia, section 3 defines the author of an artistic work (other than a photograph) as the artist, while paragraph 7(3)(a) requires sufficient effort to make the work original. Act 332 does not contain an express counterpart to section 9(3) of the UK Copyright, Designs and Patents Act 1988, which addresses authorship of computer-generated works. That difference is a relevant comparative question, not a basis for assuming how a Malaysian court would decide every AI-assisted-work dispute. Sections 25 and 36B may be relevant to attribution, certain prejudicial alterations and electronic rights-management information, but neither creates a general exclusive right in visual style. The central gap is therefore the relationship between input-stage use, output-stage resemblance, human creative contribution and the practical ability of designers to enforce any applicable rights.

Research Questions

- Research Question 1 (RQ1): How do selected legal and policy documents address the use of works for AI training and allegations of visual style imitation?
- Research Question 2 (RQ2): What protection gaps and ethical challenges arise for graphic designers with respect to human authorship, attribution and economic interests?

RQ1 examines Act 332, U.S. Copyright Office reports and selected court decisions, including Andersen and Getty. RQ2 assesses the implications for designers' interests by reference to the doctrine of human authorship, moral rights and the debate on market effects.

Research Objectives and Structure of the Article

This study has two objectives: (i) to analyse how selected legal and policy documents address the use of copyrighted works for AI training, the status of outputs and allegations of style imitation; and (ii) to identify ethical and protection gaps that may affect the moral and economic interests of graphic designers. The article is organised into sections covering the literature review, methodology, findings and discussion, and conclusion and recommendations.

LITERATURE REVIEW

The Doctrine of Originality and *Human Authorship*

United States copyright law ordinarily presumes a human author. In Thaler v. Perlmutter, the D.C. Circuit affirmed that a work alleged to have been created entirely by an autonomous system without human contribution is not eligible for copyright protection. The Supreme Court's denial of certiorari in 2026 (Baker Donelson, 2026; CASRAI, 2026; Mayer Brown, 2026) does not mean that the highest court endorsed the reasoning of the judgment below; a denial of certiorari is not a decision on the merits of the case. The U.S. Copyright Office (2025a) further clarifies that outputs containing AI-generated material may receive protection to the extent of the expressive elements determined by a human, depending on the facts. Authorship issues must therefore be analysed on the basis of the level of human creative contribution and cannot be summarised as a blanket prohibition on AI-assisted works. A related line of authority is Naruto v. Slater (2018), in which the Ninth Circuit held that an animal lacked statutory standing under the Copyright Act.

In Malaysia, Act 332 defines the author of an artistic work other than a photograph as the artist (section 3) and requires sufficient effort to make the work original (paragraph 7(3)(a)). The text consulted in this study does not contain a specific provision equivalent to section 9(3) of the Copyright, Designs and Patents Act 1988 of the United Kingdom on the author of computer-generated works. However, the absence of a specific provision does not in itself resolve all questions about AI outputs; the analysis must still consider the statutory text, the principles of originality and the identifiable human contribution. The doctrine of authorship answers who may claim rights in an output, not whether the works of others were lawfully used to train the model.

The *Style vs Idea* Dilemma

The principle that copyright protects expression and not ideas, methods or general style forms the basis of the debate on visual style. Under United States law, 17 U.S.C. § 102(b) excludes ideas, procedures, processes, systems, methods of operation, concepts, principles and discoveries from copyright protection. The distinction has long roots in United States case law, notably Baker v. Selden (1879). In Malaysia, subsection 7(2A) of Act 332 likewise excludes ideas, procedures, methods of operation or mathematical concepts as such. The general rationale for these exclusions is to avoid monopolies over ideas and over broad creative space. However, this principle does not mean that all visual characteristics or similarities between works are necessarily irrelevant; whether the expression of a particular work has been copied requires separate analysis.

The boundary between style and expression can be complicated, particularly in the visual arts, where identity may be formed from a combination of composition, colour, shape and technique. Nevertheless, stylistic

similarity is not necessarily the same as copying protected expression. United States courts have long assessed similarity through tests that look beyond literal copying, such as the abstractions approach in Nichols v. Universal Pictures Corp. (1930) and the "total concept and feel" analysis applied in Steinberg v. Columbia Pictures Industries, Inc. (1987). The assessment should therefore not depend on a single feature such as a colour palette or brushwork technique alone, but on the context of the work, the shared elements and the applicable legal tests. Academic debate on the difficulty of separating style from expression is useful for identifying policy problems, but does not replace the legal tests applicable in a particular case (Mahajan, 2025; Wolfson, 2023; Yi, 2026).

Generative AI poses a challenge because outputs may reproduce recognisable characteristics from many works without necessarily producing a clear copy of any one particular work. Lemley (2024) discusses the pressure this technology places on the idea-expression distinction and the test of substantial similarity. However, scholarly proposals to change the test or create new forms of protection must be distinguished from the law currently in force. For the purposes of this study, that debate is used to explain policy issues, not to treat style imitation as a generally recognised cause of action.

Training Data Ethics: *Fair Use* versus Moral Rights

U.S. debate commonly uses the fair-use doctrine to assess training on copyrighted works, but outcomes remain fact-specific. Bartz v. Anthropic and Kadrey v. Meta concerned books and particular evidentiary records; they should not be treated as a universal rule for image models or every training dataset. In Bartz, the court distinguished certain training uses from the retention of copies obtained from pirated sources; a later settlement does not convert the decision into a blanket authorisation of AI training. In Kadrey, the court accepted fair use on the record before it, including the evidence of market harm presented. The U.S. Copyright Office's Part 3 report discusses licensing, market effects and the nature of the material used, but it is an administrative report, not legislation or a binding court judgment. In Malaysia, paragraph 13(2)(a) and subsection 13(2A) of Act 332 must be applied on their own terms. The relevant questions include the purpose and character of the dealing, the nature and quantity of the works used, and the likely effect on the market. The existing text does not expressly create a general text-and-data-mining exception. On the available sources, however, it would be premature to conclude that every form of AI training is necessarily lawful or unlawful under Malaysian law.

Moral rights and economic rights address related but different interests. Section 25 of Act 332 concerns identification of the author and certain distortions or modifications prejudicial to the author's honour or reputation, subject to the statutory conditions. It does not automatically apply whenever an output resembles a designer's style: a claimant would need to establish the relevant protected work, authorship and statutory elements. Section 36B concerns electronic rights-management information, including information identifying a work or its author, and is not a general anti-imitation provision. Its relevance depends on the information involved, the act complained of and the statutory knowledge and infringement-related conditions. Section 37 provides remedies in specified circumstances, including statutory damages of up to RM25,000 per work and RM500,000 in aggregate under subsection 37(1)(d), subject to the statutory conditions. Those limits should not be presented as an automatic payment for style imitation or as a substitute for establishing infringement. Policy proposals for consent, licensing and compensation may address concerns that existing copyright rules do not resolve, but their feasibility and distributional effects require separate evaluation (Gans, 2024; Mantegna, 2024; Pasquale & Sun, 2024; Sag, 2024, as cited in Liang & Lu, 2026).

RESEARCH METHODOLOGY

Research Design

This study uses a qualitative approach through critical document analysis. This approach is suitable because the research questions examine how legal texts, court decisions and policy documents frame the use of works, authorship, visual style and fair dealing, rather than measuring participants' experiences (Bowen, 2009). A critical reading takes into account the context in which the documents were produced, their purpose and the interests of the parties they represent (Prior, 2003). The study is interpretive; it does not aim to make statistical generalisations or to provide legal advice.

Document Data Sources

The document corpus is divided into three main groups:

1. United States legal documents and cases, in particular the order in Andersen v. Stability AI, No. 3:23-cv-00201-WHO (N.D. Cal., 12 August 2024). This order is read as a decision at the motion-to-dismiss stage, not a final decision on liability.

2. Official documents of the U.S. Copyright Office, including the registration guidance for works containing AI-generated material (2023) and the report Copyright and Artificial Intelligence, in particular Part 2 on the copyrightability of outputs and Part 3 on generative AI training. The Part 3 referred to is the pre-publication version available in the sources reviewed.

3. Malaysian primary legal material comprised the Copyright Act 1987 [Act 332], focusing on sections 3, 7, 13, 25, 36B and 37. The consolidated text available on MyIPO's official website is marked as updated to 30 June 2022 and incorporates the Copyright (Amendment) Act 2022 (Act A1645). The 2026 MyIPO public consultation on proposed amendments is treated as evidence of a reform process, not as enacted law. This distinction is important because no later consolidated text or enacted AI-specific amendment was identified in the official sources reviewed by the final source check.

As comparative and contextual material, the study examines Getty Images v. Stability AI [2025] EWHC 2863 (Ch), Thaler v. Perlmutter, Bartz v. Anthropic and Kadrey v. Meta, alongside academic articles, legal commentary, industry surveys and media reports. Documents were included where they directly addressed at least one analytical issue—training, authorship, style, moral rights, attribution or market effects—and had an identifiable source and date or publication record. Primary statutes, judgments and official reports were prioritised for statements about law and case outcomes; secondary commentary was used to locate debates and interpret context, not to replace primary materials where those were available. The corpus was purposively selected rather than generated through a systematic database review. For consistency, the final source audit checked each item for traceable provenance, relevance to at least one research question, date or version, and whether a primary source was available for the legal proposition. Duplicate commentary and sources that did not add a distinct legal or contextual point were not treated as separate evidentiary support. The analysis therefore does not claim to be exhaustive. The final source check was completed on 26 October 2026. Industry surveys and media reports are treated as contextual indicators only; they are not causal evidence and do not establish the experience of Malaysian graphic designers as a group.

Analytical Technique

The analysis followed the six phases of thematic analysis described by Braun and Clarke (2006): familiarisation, initial coding, theme construction, theme review, theme definition and writing. Coding combined deductive and inductive steps. The deductive code families covered ethics (consent, compensation and attribution), authorship and ownership (human authorship, idea/expression, copying and moral rights), and fair dealing (purpose, market effects, source of access, parody/pastiche and attribution). Four inductive codes captured issues emerging during reading: evidence of memorisation, use of artist names or trade dress, burdens associated with opt-out mechanisms, and concerns about the devaluation of creative expertise. The 26 coded segments in Appendix A are summaries, not verbatim quotations. Each segment records a source, location, paraphrase, code and theme. The procedure was interpretive and did not use independent double-coding or calculate inter-coder reliability; the codebook and source locations are provided to make the analytical trail inspectable. Because the corpus was purposively selected and not systematically exhaustive, the findings are analytical propositions grounded in the documents reviewed, not a comprehensive statement of all law or stakeholder views.

Reliability, Ethics and Limitations

Credibility was supported by recording the source and location of each coded segment, distinguishing primary legal materials from secondary commentary, and checking legal propositions against the available statutory text and judgments where possible. The codebook and segment summaries in Appendix A provide a compact audit

trail. No independent second coder was used, and no inter-coder statistic is claimed. The study has three further limitations: the Malaysian consolidated Act 332 text available on MyIPO is dated 30 June 2022; the reform consultation is a policy process rather than enacted law; and evidence about designers' economic experiences is drawn mainly from non-Malaysian surveys and media reports. These limitations restrict the conclusions and are addressed in the discussion and recommendations.

FINDINGS AND DISCUSSION

Analysis of the 26 document segments summarised in Appendix A produced three interrelated themes. The first theme discusses the authorship of AI outputs; the second examines the use of works for training and how the question of style appears in legal debate; the third discusses the implications for moral rights, economic interests and designers' working conditions. The number of segments indicates the scope of the material analysed, not a measure of frequency or statistical significance.

Theme 1: Human Authorship and the Status of AI Outputs

Document analysis shows that United States sources emphasise human control over expressive elements when determining whether AI outputs may be protected. The U.S. Copyright Office (2025a) explains that prompts alone, given the state of the technology assessed in that report, are ordinarily insufficient to demonstrate human control over the expression of the output. Protection may exist for identifiable human contributions, including original works incorporated into the output, or creative selection, arrangement and modification; the assessment is made case by case. Because Thaler v. Perlmutter concerned a work alleged to have been produced entirely by AI, it did not set a universal threshold for every form of AI assistance. This conclusion concerns the status of outputs, not the permissibility of using the works of others to train the model.

For Malaysia, sections 3 and 7(3)(a) of Act 332 provide the starting point for identifying the author and assessing originality of an artistic work, while subsection 7(2A) excludes ideas and certain other subject matter as such. The statute does not expressly resolve the status of every output produced with generative AI. The most defensible interpretation is therefore a case-specific inquiry into the human contribution, originality and form of expression, rather than an assumption that the prompt writer, model developer or user is automatically the author. This is a doctrinal inference from the available statutory text, not a settled Malaysian rule for AI-generated works.

DISCUSSION

The main issue is not necessarily a failure of the doctrine of human authorship, but a mismatch between two questions: who may be regarded as the author of an output, and whether a designer's works were lawfully used as training input. The first doctrine does not in itself answer the second question. This article therefore distinguishes (1) original works used or copied in training, (2) outputs that resemble a designer's visual style, and (3) copyright or human creative contribution in the output. Separating these three layers avoids the conclusion that style imitation is automatically infringement, or that unprotected outputs extinguish the interests of the source designer.

Theme 2: The Use of Works for Training and the Position of Visual Style

Finding 2.1: the use of works and the status of the model are distinct questions. The U.S. Copyright Office report on generative AI training discusses how the collection and copying of works may implicate the reproduction right, while the lawfulness of that use must be assessed according to the facts and the defences available (U.S. Copyright Office, 2025b). In Andersen, the court allowed several theories of claim to proceed at an early stage on the basis of the plaintiffs' allegations; it did not decide that the model definitively infringes copyright. By contrast, the judgment in Getty Images v. Stability AI held that the model weights in that case were not in themselves infringing copies. Getty's main claims on training and outputs were withdrawn during the trial, so that judgment must be read within the scope of the facts and claims actually decided. This difference shows that copying at the training-data stage, content stored in the model, and the resemblance of outputs cannot be merged into a single legal question.

Finding 2.2: visual style emerges through collateral questions, not as a stand-alone exclusive right. The general principles of copyright distinguish ideas or style from the expression of a specific work. Nevertheless, claims relating to style may intersect with questions of expressive similarity, the use of artists' names, trade marks or misleading representations, depending on the facts and the applicable law. In Andersen, the court allowed part of the claims under the Lanham Act to proceed at an early stage; this is not a general recognition that an artist's style can be owned as a trade mark. The fair use debate in the United States, for its part, assesses specific legal factors, including the purpose of use and market effects. As noted in Section 2, Bartz v. Anthropic and Kadrey v. Meta involved books and are not decisions on images or graphic styles. The concept of market dilution can therefore be discussed as a policy argument or a theory that must be proven, not as an automatic method for treating style imitation as infringement.

Finding 2.3: Malaysian law supplies factors for analysis but no specific answer on generative-AI training in the sources reviewed. Paragraph 13(2)(a) and subsection 13(2A) of Act 332 require attention to purpose, the nature and amount of the work used, and market effect. The lack of an express general text-and-data-mining exception is relevant, but it does not by itself determine whether a particular use falls within an existing exception. The MyIPO consultation on proposed amendments closed on 14 August 2026; consultation proposals and reports of a possible opt-out mechanism remain distinct from enacted law (MyIPO, 2026; Bernama, 2026).

Doctrinal Implications for Malaysian Copyright Law

The Malaysian provisions are best understood as a set of conditional routes to protection, rather than as a general right to control a visual style. First, sections 3 and 7 address the identity of the author and originality of a work; in an AI-assisted workflow, the practical question is what identifiable human expression, selection, arrangement or modification can be evidenced. The current text does not specify a comprehensive test for AI-generated works, so the article does not infer a settled answer from statutory silence. Second, section 13 requires an exception analysis distinct from authorship. For a training use, relevant evidence may include the purpose of copying, whether the use is commercial, the kind and quantity of works copied, and the effect on a potential market. These are statutory considerations, not a checklist that guarantees either fair dealing or infringement. Third, section 25 should be considered only where the claim concerns a specific work and the relevant identification or prejudicial-distortion conditions; an output's general resemblance to an artist's manner is insufficient on its own. Fourth, section 36B is directed to electronic rights-management information and its unauthorised removal or alteration in the circumstances defined by the Act. It should not be used as a substitute for proving copying of protected expression. Finally, section 37 concerns remedies after the applicable statutory basis is established. These distinctions are important because policy concerns about attribution, bargaining power or lost opportunities may be real even when the elements of a copyright claim cannot be shown. The consultation process in 2026 signals that reform is being considered, but no proposed opt-out mechanism should be described as an existing right unless and until it is enacted and brought into force.

Theme 3: Moral Rights, Economic Interests and the Position of Designers

Finding 3.1: moral-rights and rights-management provisions are specific, not general style protections. Section 25 concerns identification of authorship and certain prejudicial distortions or modifications where the statutory conditions are met. Section 36B concerns electronic rights-management information and may become relevant if qualifying information is removed or altered in the circumstances described by the provision. Neither section automatically gives a designer a claim simply because an output resembles a visual style. Section 37 remedies must likewise be tied to an established cause of action and the statutory requirements; the existence of a remedy does not establish infringement in the first place.

Finding 3.2: evidence of economic impact shows concern, but its limitations must be stated. An industry survey in the United Kingdom reported that some illustrators attribute generative AI to lost work, reduced income or concerns about future income (European Writers' Council, 2024; Cartwright, 2025). These data are based on self-reports and cannot be taken as representing all designers. Likewise, media reports and general Malaysian labour market data (HRM Asia, 2026; Reeracoen Malaysia, 2026; The Straits Times, 2026) do not isolate the effect on graphic designers or prove that changes in employment are caused by AI. These sources are

better used as indications that the issue warrants empirical study, rather than as causal evidence of the situation of all Malaysian designers.

Discussion. The possible devaluation of expertise extends beyond proven loss of income. If the visual characteristics associated with a designer can be imitated at low cost, this has the potential to affect market distinctiveness or fee negotiations. However, the relationship between stylised outputs, commercial loss and legal liability must be proven separately. The main gap in the Malaysian context is the absence of any identified local decision in the study corpus on generative AI training, together with the lack of empirical data specific to graphic designers. Both limit the conclusions that can be drawn and point to the need for further research.

Synthesis

Synthesis. The document analysis supports a three-layer framework. First, input-stage copying asks whether protected works were reproduced or otherwise used in a legally relevant way, and whether a statutory exception applies. Second, output-stage resemblance asks whether a particular output copies protected expression, causes a legally relevant market or attribution harm, or raises a separate trade-mark or passing-off issue; similarity to a general style alone is not enough to establish copyright infringement. Third, output authorship asks what expressive contribution a human made and whether the statutory conditions for protection are met. These layers may interact factually but should not be collapsed into a single question about whether AI is lawful. The framework's contribution is analytical rather than empirical: it helps identify which evidence and legal test are relevant to each dispute. For Malaysia, the most immediate gap is uncertainty about training and AI authorship in the available statutory and judicial materials, alongside the absence of local empirical evidence about designers' experiences.

Comparative Summary: Malaysia, United States and United Kingdom

The comparative table summarises the principal contrasts relevant to the three-layer framework. It is a high-level comparison of the sources reviewed, not a comprehensive statement of each jurisdiction's law; case outcomes depend on the particular claim, facts and procedural stage.

Issue	Malaysia	United States	United Kingdom
AI training / input-stage use	Act 332 ss. 13(2)(a), 13(2A) provide fair-dealing purposes and factors; no express general TDM exception identified in the consolidated text available (Copyright Act 1987 [Act 332]; MyIPO, 2026). No Malaysian decision on generative-AI training identified in this corpus.	Fair use under 17 U.S.C. § 107 is assessed case by case. Andersen remains a pleading-stage order; Bartz and Kadrey concerned specific facts and books. U.S. Copyright Office Part 3 is a policy report, not a court judgment.	Getty's principal training claim was abandoned because the evidence did not establish training in the UK; the judgment did not decide the general lawfulness of overseas AI training.
Visual style / output resemblance	No stand-alone exclusive right in general visual style identified in Act 332. A claim would need to be tied to protected expression or another applicable legal basis.	General style is not ordinarily protected as such; specific copying, trade-mark or false-endorsement claims depend on the evidence and applicable tests. Andersen's pleading-stage treatment is not a final finding that style is copyrightable.	Getty does not establish copyright in style. Limited historic trade-mark findings concerned specific watermarks and facts; the copyright claims narrowed before judgment.
AI output authorship	Sections 3 and 7(3)(a) are relevant to author and originality; Act 332 contains	Human authorship is required; the Copyright Office's Part 2	CDPA 1988 s. 9(3) provides a statutory rule for computer-generated

	no express equivalent to UK CDPA s. 9(3) identified in this study. Malaysian application remains unsettled in the corpus.	recognises protection for sufficient human-determined expression, selection, arrangement or modification, depending on facts.	works, defining the author by reference to arrangements necessary for creation. Its application to modern generative AI remains a distinct interpretive question.
Moral rights / attribution / remedies	Sections 25 and 36B may apply when their specific statutory elements are met; s. 37 remedies require an established statutory basis. None creates a general style right.	Attribution and integrity protection are not equivalent to Malaysia's provisions and depend on the relevant federal/state and statutory framework; 17 U.S.C. § 1202 concerns copyright-management information.	Moral rights and rights-management questions are governed by the CDPA and related law; their application is separate from the question whether style itself is protected.
Status of reform / certainty	MyIPO's 2026 consultation closed on 14 August 2026; proposals are not law unless enacted and brought into force.	Policy debate continues through U.S. Copyright Office reports and litigation; outcomes remain fact- and claim-specific.	Getty [2025] EWHC 2863 (Ch) resolved a narrowed secondary-infringement issue and limited trade-mark issues, not the general legality of AI training.

CONCLUSION AND RECOMMENDATIONS

Summary

This study examined copyright and ethical questions surrounding visual style in generative AI through three distinct layers: use of works during training, resemblance between outputs and a designer's style, and authorship of AI-assisted or AI-generated outputs. The analysis does not support treating visual style as a stand-alone exclusive copyright right. It does, however, identify related questions about copying protected expression, market effects, authorship, attribution, moral rights and trade marks. These questions require different evidence and should not be conflated.

For Malaysia, Act 332 remains the relevant statutory framework in the official consolidated text located for this study, which MyIPO identifies as updated to 30 June 2022. MyIPO's 2026 public consultation on proposed amendments closed on 14 August 2026. Subsequent discussion of an opt-out mechanism is evidence of policy consideration, not proof that such a mechanism has become law. Any future revision of this article should re-check the Federal Gazette and MyIPO's official legislation page before publication (MyIPO, 2026; Bernama, 2026).

Policy and Ethical Recommendations

1. Transparency and options for training data. Developers should provide meaningful, proportionate information about training-data sources and categories, subject to legitimate privacy, security and contractual constraints. Any opt-in or opt-out mechanism should be evaluated for discoverability, enforceability, treatment of existing datasets, cross-border applicability and the risk of shifting compliance costs to individual creators. Feasibility indicators could include the proportion of works that can be reliably identified, administrative cost per rights holder, accessibility for independent designers and the ability to audit compliance. This is a policy proposal, not a description of a current Malaysian legal duty.

2. Licensing and compensation. Voluntary licensing or collective-management arrangements could be explored with rights holders, designer associations, collecting societies and model developers. A pilot should assess how works would be identified, how remuneration would be calculated and distributed, how orphaned or unregistered works would be treated, and whether smaller creators would receive meaningful benefits after administration costs. Licensing should not be presented as automatically feasible for every dataset or as a substitute for determining whether a specific use is already permitted by law.

3. Attribution, metadata and technical measures. Standardised rights metadata and preservation of author and licence information could improve traceability, but technical tools are imperfect and cannot alone establish consent or prevent all imitation. Section 36B should be invoked only where its specific requirements concerning electronic rights-management information are met. Technical protection tools may complement, but should not replace, legal remedies, licensing or transparent processes (Glaze Project, n.d.; University of Cambridge, 2025).

4. Ethical guidelines and AI disclosure. Design agencies, educational institutions, professional bodies and clients could adopt proportionate guidance on the use of artists' names in prompts, disclosure of AI assistance, documentation of human creative contribution and labelling of outputs where relevant. Such guidance should distinguish broad stylistic inspiration from the copying of a particular work, misleading endorsement or misuse of protected identifiers. To avoid placing disproportionate burdens on independent designers, guidelines should include practical examples, accessible templates and low-cost compliance options.

Limitations and Further Research

This study is limited to purposively selected public documents and does not directly measure the experiences of Malaysian graphic designers. The analysis is not a systematic review of every judgment, consultation response or training-data practice. Further work should (i) re-check the Federal Gazette and MyIPO sources when any amendment is enacted; (ii) conduct doctrinal analysis of any enacted provisions and Malaysian case law; (iii) interview or survey designers, clients and licensing organisations; and (iv) pilot-test transparency, opt-out and licensing proposals for cost, accessibility, enforcement and distributional effects. Empirical work would be a separate follow-up study and was not added to the present document-analysis design.

Ethical Considerations

This study analysed publicly available legal and policy documents and did not involve human participants or animals. Ethical approval was therefore not required.

Conflict Of Interest

The authors declare no potential conflicts of interest, financial, personal or professional, that could inappropriately influence or bias the findings and conclusions presented in this article.

Declaration Of Ai

The authors used AI-assisted language tools for limited language refinement, grammar checking and editorial clarity during revision. These tools were not used to generate research data or independently conduct the analysis. All conceptual framing, methodological decisions, interpretation, source verification and final conclusions remain the responsibility of the authors, who reviewed and approved the final manuscript.

Data Availability

All documents analysed in this study are publicly available and are listed in the References. The codebook and the coded segments supporting the analysis are provided in Appendix A.

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Appendix A: Codebook And Coded Segments

This appendix lists the codebook (Table 1) and the 26 coded segments (Table 2) used to develop the analysis in Section 4. The segment summaries are paraphrases, not verbatim quotations. Primary legal documents are the preferred authority for statements about statutory wording and court outcomes; secondary sources provide context where relevant. The appendix is a compact audit trail, not a claim that the corpus is exhaustive or that every source was coded in full.

Codebook

Appendix Table A1: Codebook

Code	Definition	Type
E1	Consent	Deductive
E2	Compensation and licensing	Deductive
E3	Attribution and credit	Deductive
H1	Human authorship	Deductive
H2	Style versus idea and expression	Deductive
H3	Copying and infringement (training, model, output)	Deductive
H4	Moral rights and rights management information	Deductive
F1	Transformative purpose or fair dealing	Deductive
F2	Market effects and dilution	Deductive
F3	Source of access (piracy)	Deductive
F4	Parody and pastiche	Deductive
F5	Attribution requirements in fair dealing	Deductive
I1	Evidence of memorisation	Inductive
I2	Style claims through artist names or trade dress	Inductive
I3	Opt-out burden	Inductive
I4	Devaluation of expertise and careers	Inductive

Coded segments

Appendix Table A2: Coded segments

No.	Document	Location	Summary (paraphrase)	Code	Theme
1	Act 332 (full text, updated 30 June 2022)	s. 7(2A)	Protection does not extend to ideas, procedures, methods of operation or mathematical concepts as such.	H2	T1, T2
2	Act 332	s. 7(3)(a)	Literary, musical or artistic works are eligible if sufficient effort has been expended to make them original.	H1	T1
3	Act 332	s. 3	The author of an artistic work (other than a photograph) is the artist; there is no specific definition for AI outputs.	H1	T1

No.	Document	Location	Summary (paraphrase)	Code	Theme
4	Act 332	s. 13(2)(a)	Fair dealing that "includes" research, study, criticism, review and news, subject to acknowledgement of title and authorship.	F1, F5, E3	T2
5	Act 332	s. 13(2A)	Weighing factors: purpose and commercial nature, nature of the work, quantity, effect on the potential market.	F1, F2	T2
6	Act 332	s. 13(2)(b)	Parody, pastiche or caricature is excepted without the same acknowledgement requirement.	F4	T2
7	Act 332	s. 13(2)(q)	Only temporary and incidental electronic copies for display are excepted; there is no specific text and data mining exception.	F1	T2
8	Act 332	s. 25(2)	Prohibition on presenting a work without identifying the author or under another name; distortion or modification that is material and prejudices honour or reputation; applies where copyright subsists in the work.	H4, E3	T3
9	Act 332	s. 36B(1), (3)	Prohibition on removing or altering electronic rights management information without authority, knowing that it facilitates infringement; information includes identification of the work and author.	H4, E3	T3
10	Act 332	s. 37(1)(d)	Statutory damages of up to RM25,000 per work and RM500,000 in aggregate; also applicable to actions under the s. 36B prohibition.	E2	T3
11	*Andersen* (full order, 12 Aug 2024)	∗1–∗2	Plaintiffs allege five billion images were scraped into the LAION datasets; LAION-5B contains only URLs, so copies must have been obtained first.	H3, E1	T2
12	*Andersen*	∗11–∗12	The model theory and the distribution theory depend on whether protected works are contained in Stable Diffusion; algorithmic representation is not a bar at this stage.	H3, I1	T2
13	*Andersen*	∗11 n. 15	The substantial similarity test is of limited help where works are used for training and referenced in the model's operation; *fair use* is tested at summary judgment.	H3, F1	T2
14	*Andersen*	∗7–∗8	DMCA § 1202 claim dismissed with prejudice because no outputs identical to the plaintiffs' works were alleged.	H4, E3	T3

No.	Document	Location	Summary (paraphrase)	Code	Theme
15	*Andersen*	∗9–∗10	The unjust enrichment claim based on style imitation and artists' reputation is not in the complaint; as filed, it is pre-empted by the Copyright Act.	H2	T2
16	*Andersen*	∗14–∗17	Lanham Act claims (false endorsement and trade dress) against Midjourney allowed to proceed based on a list of 4,700 artist names and combinations of style elements; the court acknowledged the view that style is hardly protectable as a trade mark, but assessed on the full record.	H2, I2	T2, T3
17	USCO Part 3 (pp. 1–33 only)	pp. 26–27, n. 155	Collecting and downloading works for training involves copying; LAION developers state that images were downloaded from URLs and then discarded.	H3, E1	T2
18	USCO Part 3	p. 16, n. 152	Data curation may remove author or owner information; § 1202 provisions potentially engaged.	H4, E3	T3
19	USCO Part 3	pp. 29–30	Consistent with *Andersen*: weights infringe only if the model substantively memorises protected expression.	H3, I1	T2
20	USCO Part 3	p. 33	Creators reported threats to their job opportunities in comments to the Office.	I4	T3
21	USCO Part 2 (coded from a secondary summary)	Conclusion	Prompts alone do not provide sufficient control (current technology); human work visible in the output, and creative selection, arrangement and modification, are protected; case by case.	H1	T1
22	Ginsburg (2025) (secondary source)	pp. 521–522	Part 3 accepts market dilution and treats training-enabled style imitation as market harm; does not state that copying style alone is infringement.	F2, H2	T2
23	Manatt (2025) *Kadrey*, *Bartz* (secondary source)	–	*Kadrey*: market dilution argument potentially successful but not proven; *Bartz*: training is transformative, a pirated library is not excused.	F1, F2, F3	T2
24	EWC (2024); Cartwright (2025) (secondary sources)	Industry surveys	Job losses, reduced income and concerns about visibility if opting out of datasets.	I3, I4	T3

No.	Document	Location	Summary (paraphrase)	Code	Theme
25	Mishcon de Reya (2025); Bird & Bird (2025) (secondary sources)	*Getty*	Secondary infringement rejected because model weights are not infringing copies; limited trade mark success (watermarks).	H3, E3	T2, T3
26	The Straits Times (2026) (secondary source)	Newspaper report	Graphic design graduates hired as illustrators but assigned to edit prompts; MoHR study (Aug 2025) does not cover the creative industry.	I4, H1	T1, T3