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ASSEMBLY

CONSTITUTION OF 4 OCTOBER 1958

SIXTEENTH LEGISLATURE

Registered at the Presidency of the National Assembly on 12 September 2023.

PROPOSED LAW

*aimed at providing a **copyright framework for artificial intelligence**,*

(Referred back to the Committee on Cultural Affairs and Education if a special committee has not been set up within the time limits laid down in Rules 30 and 31 of the Rules of Procedure),

presented by Ladies and Gentlemen

Guillaume VUILLETET, Claire PITOLLAT, Olga GIVERNET, Dominique DA SILVA, Stella DUPONT, Émilie CHANDLER, Estelle FOLEST, Cécile RILHAC,

Members of Parliament.

EXPLANATORY

MEMORANDUM LADIES AND GENTLEMEN,

There is a major economic, cultural and legal challenge linked to the unbridled development of artificial intelligence (AI) that needs to be addressed urgently.

Article L. 112-1 of the French Intellectual Property Code states that "the provisions of this Code protect the rights of authors in all works of the mind, whatever their genre, form of expression, merit or purpose".

Article L. 121-1 of the French Intellectual Property Code states that "The author enjoys the right to respect for his name, his status and his work".

In the face of AI, an ecosystem that is advancing by leaps and bounds, it is imperative that the legislator protects authors and artists in creation and interpretation according to a humanist principle, in legal agreement with the Intellectual Property Code. This is the case even though the possibilities offered by artificial intelligence are overturning our traditional categories, and many questions remain unanswered for the time being.

For example, in 2016, a painting by Rembrandt, "the Next Rembrandt", was designed by a computer and produced by a 3D printer, 351 years after the painter's death. The exponential development of AI that we are facing today means that we need to seek and find a response to curb what already seems to be a threat and probably a future disaster for creation, whether in the visual arts, photographic images, books, music, scientific articles or the press, and so on. These are all sectors that are already precarious, and all the more so economically fragile because they are subject to French-style copyright in terms of remuneration.

To this end, strictly controlling the exploitation of AI-generated works would make it easier to collect the remuneration received for these works and guarantee fair and equitable remuneration for their exploitation, thereby helping to encourage innovation and promote artistic diversity. All of this would be made possible by traceability, making it possible to identify the authors and artists who should have benefited from a request for authorisation before their creations and performances were made available to the public.

swallowed up by an algorithm that uses it or draws inspiration from it alongside thousands of others.

The credibility of photographic images, the credibility of texts offered as news, the framing of videos as the result of digital editing all deserve our utmost vigilance. They raise questions of ethics and the necessary precautionary principle. They lead us to question our free will. They raise major issues that will determine the survival of our creativity and the path taken by our cultural field in the years to come.

We need to define the ethical boundaries of AI, to prevent any uncontrolled escape of protected creations. In Article 4, we therefore propose the introduction of a levy designed to enhance the value of creation, for the benefit of the entity responsible for collective management, when intellectual works are generated by an artificial intelligence device from works whose origin remains uncertain. The aim of this measure is to encourage AI systems to respect copyright and promote creativity, thereby strengthening the French cultural exception.

PROPOSED LAW

Article 1^{er}

- A new paragraph is added to Article L. 131-3 of the French Intellectual Property Code:
- "The integration by artificial intelligence software of intellectual works protected by copyright in its system, and *a fortiori* their exploitation, is subject to the general provisions of this code and therefore to authorisation by the authors or right holders".

Article 2

- The following nine paragraphs are added to Article L. 321-2 of the Intellectual Property Code:
- "When the work is created by an artificial intelligence without direct human intervention, the only rights holders are the authors or assignees of the works which made it possible to conceive the said artificial work.
- "The collective management of rights in works generated by artificial intelligence may be carried out by societies of authors or other collective management bodies. These entities are entitled to represent rights holders and to collect remuneration for the exploitation of copies of works, in accordance with the rules laid down by the articles of association of these societies.
- "The remuneration provided for in Article L. 133-1 is collected by one or more collective management organisations governed by Title II of Book III and approved for this purpose by the Minister responsible for culture.
- "The approval provided for in the first paragraph shall be issued in consideration of :
 - "1° the diversity of the members ;
 - "2° the professional qualifications of the managers;
 - "3° the means that the organisation proposes to implement to ensure the collection and distribution of remuneration for the exploitation of copies of works;

- "4° the equitable representation of authors and exhibitors among its members and within its governing bodies.
- "A decree of the Conseil d'Etat sets out the conditions for issuing and withdrawing this approval.

Article 3

- A new paragraph is added to Article L. 121-2 of the French Intellectual Property Code:
- "In cases where a work has been generated by an artificial intelligence system, it is imperative to include the words: "work generated by AI", as well as the names of the authors of the works that led to the creation of such a work".

Article 4

- Article L. 121-2 of the Intellectual Property Code, as amended by Article 3 of this Act, is supplemented by three paragraphs worded as follows:
- "Furthermore, in the event that an intellectual work is generated by an artificial intelligence device from works whose origin cannot be determined, a tax intended to enhance the value of the creation is levied.
established for the benefit of the organisation responsible for collective management designated by article L. 131-3, as amended, of this code.
- "This taxation is imposed on the company that operates the artificial intelligence system that generated the said "artificial work".
- "A decree in the Council of State will set the rate and basis of this tax.