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Developing a Risk-Based Intellectual Property Governance Framework for Generative Artificial Intelligence: A Comparative Analysis of the Eu Ai Act, Uk, and Us Legal Systems

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ABSTRACT

This paper develops a risk-based intellectual property (IP) governance framework for generative artificial intelligence (GenAI) through doctrinal, comparative, and normative analysis of the European Union (EU), the United Kingdom (UK), and the United States (US). It covers copyright and related IP challenges in data acquisition, model training, output creation, and commercial deployment, as well as the distribution of control, transparency, attribution, and liability in each jurisdiction. The analysis reveals that the EU has several text-and-data-mining exceptions and copyright-policy and training-content-summary obligations for general-purpose AI providers, while the UK has a very limited non-commercial research exception and a unique statutory exception for computer-generated works, and the US is driven primarily by the human-authorship doctrine and fact-specific fair-use analysis. While these strategies offer valuable protections, none alone establish a comprehensive system of organisational control. The study thus suggests an auditing framework linked to the legal basis, data provenance, licenses, human contribution to creativity, output testing, documentation, accountability and escalation, and periodic reassessment, according to the proportionate degree of risk. Rather than harmonizing the three legal systems, the framework sets out a common organizational process for identifying and managing differences in the three legal systems to safeguard the rights holders and to allow for responsible innovation.

INTRODUCTION

Generative artificial intelligence (GenAI) has shifted the intellectual property (IP) landscape from a relatively standalone legal issue to an ongoing governance challenge, from collecting data and training models to creating content and commercialising GenAI applications. Chesterman (2025) highlights the ‘distributive conflict’ between creators whose works are used for training and makers’ desires for ownership over the AI-generated works, while Kretschmer *et al.* (2024) explain that potentially copyright-relevant activities can happen at multiple phases of the machine learning lifecycle. Jurisdictions also differ materially in their legal positions. In contrast to the fact-specific fair use approach of the United States, Wu (2024) illustrates that the EU framework of rights is also non-uniform, as it mixes exceptions, transparency, control and compensation in various ways. Article 53(1)(c)-(d) of Regulation (EU) 2024/1689 obliges suppliers of general-purpose AI models to have a policy respecting compliance with copyright law in the Union and to provide a summary of the content on which the AI models have been trained that is sufficiently detailed. However, Buick (2025) doubts that transparency alone can fix the problems of identifying works, reserving rights, and enforcing claims. Ulnicane (2025) warns against risk management being a mere procedural process, and Janssen (2025) states that governance of GenAI technologies should not be set in stone, given how fast the technology, data practices and institutional responsibilities are changing. The explicit research gap is that the problems with individual doctrines

and governance are explained but not brought together in one organisational framework, proportionate and auditable, which takes into account changing requirements of EU, UK and US law in a lifecycle context. This study addresses this unresolved integration problem.

This study aims to develop a risk-based intellectual property governance framework that translates comparative analysis of EU, UK and US law into proportionate and auditable controls for the GenAI lifecycle. To achieve this aim, the study seeks to identify and critically examine the principal IP risks arising during training-data acquisition, model development, output generation and commercial deployment; compare the EU, UK and US legal approaches and determine areas of convergence, divergence and regulatory uncertainty affecting organisations operating across jurisdictions; evaluate the extent to which existing frameworks balance the protection of creators and other rights holders with legitimate technological innovation; and design a practical governance framework that links comparative legal findings to risk classification, evidence, accountability, technical controls, escalation and reassessment. Accordingly, the study addresses the following research questions: What principal intellectual property risks arise across the GenAI lifecycle? How do EU, UK and US laws govern training data, text and data mining or fair use, output authorship and infringement, and where do they converge or diverge? To what extent do the three legal frameworks balance rights-holder protection with legitimate technological innovation? Which legal, evidential, organisational and technical components

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should a proportionate and auditable risk-based IP governance framework contain?

The study is significant because the literature identifies numerous GenAI-related IP risks but offers limited integration between legal doctrine and organisational governance. Taeihagh (2025) argues that complementary governance instruments are needed for interconnected GenAI risks, while Dermawan (2024) emphasises the public interest in knowledge, innovation, and cultural participation in copyright. Saw and Tan (2025) argue that infringement exposure can occur during dataset preparation, the training phase, and output creation, while Manteghi (2024) notes exemptions and technical options, such as synthetic data, that can reduce certain exposures. Together, these studies show that prohibition alone, and even a single legal defence, is not enough to provide governance solutions. This study is a comparative legal analysis of training data, transparency, fair use, text and data mining (TDM), authorship, accountability, and innovation at the academic level. In practical terms, it distinguishes between legitimate activities of the content owner/licensor/clearly permissible content and activities that are potentially more dangerous because of unclear provenance, large-scale commercial training, possible infringing outputs, or cross-border deployment, etc. In doing so, it aims to make IP risk identifiable, proportionate, and auditable before a dispute.

LITERATURE REVIEW

This review is organised by lifecycle and doctrinal theme. Primary legal authorities are first considered and then interpreted within each theme, with clear implications for the proposed governance framework. This sequence distinguishes what the current law demands from what this study's normative suggestions propose, and shows how each suggestion rests on a particular legal uncertainty and/or enforcement risk.

Lifecycle, Training Data and TDM

The first debate concerns whether copyright analysis should be limited to model training or extend across the GenAI lifecycle. Kretschmer *et al.* (2024) show that various legally relevant acts and uncertainties can arise in data collection, corpus preparation, training, and model operation. Saw and Tan (2025) further reason that at each stage it is to be asked whether there is copying, communication or reproduction in output and whether a jurisdiction-specific exception or defence is applicable. Kretschmer *et al.* offer the more technically detailed description, while Saw and Tan link the different stages more directly to potential liability. The literature thus highlights the need to ascertain the act, the actor, the work, the territory, and the legal basis at each stage before proposing a governance response.

There are significant variations in the legal frameworks for TDM. The EU's Directive (EU) 2019/790 provides an exception for reproductions and extractions by research organisations and cultural heritage institutions

for scientific research where they have lawful access. There is a more general TDM exception in Article 4 for "lawfully accessible works" but not where "the rights holders have expressly reserved the rights." Section 29A of the Copyright, Designs and Patents Act 1988 (CDPA) provides an exception in the UK to allow for copies to be made for 'computational analysis' provided that the researcher has lawful access, and the copy is for 'non-commercial research' (and sufficient acknowledgement is given 'where practicable'). There is no TDM exception in the US. Instead, training-related copying is evaluated according to the four statutory fair use factors listed in 17 USC section 107: purpose and character, nature of the work, amount used and market effect. Thus, 'TDM' is not a transferable permission in the three jurisdictions.

In this legal context, Manteghi (2024) considers TDM exceptions and licensing and synthetic data as alternative exposure reduction measures, while Tyagi (2024) highlights that limited exemptions and licensing fees can create an advantage for those companies that can afford to acquire large private datasets. These sources do not, in themselves, impose an obligation on an organisation to keep records of document provenance. Instead, this study takes up the notion of provenance as a governance move to demonstrate good faith access, to make an EU rights reservation and/or document the facts in relation to US fair use. Licensed, public domain or synthetic alternatives and more limited fine-tuning are also reasonable reasons to not reject a project. Where the upstream provenance of synthetic data is unknown, it cannot automatically be considered safe.

Compensation, Exceptions and EU Governance

Compensation provides another point of disagreement. Senftleben (2023) argues that GenAI's potential substitution effects could support a levy-based/collective-management approach where individual licensing is not possible. But Dermawan (2024) warns that copyright policy must also protect access to knowledge, cultural participation, and innovation through public-interest theory. Dermawan offers a broader social legitimacy test, whereas Senftleben provides a more concrete remuneration proposal. A risk-based governance model cannot decide the proper national remuneration scheme. It may, however, take commercial scale, potential market substitution and research and genuinely transformative uses, for which there may be more specific ways of protecting rights-holders' interests, into account as material assessment factors, and exclude categorical exclusion of research and genuinely transformative uses. International 3-step test and FR analysis also limit exceptions. These, however, can be formulated to meet the three-step test and may include opt-outs or fair remuneration if required, according to Senftleben (2026). In contrast, Geiger (2024) takes a more general approach to the human-rights balance between creator protection and freedom of expression, scientific progress and access to culture. Geiger more directly exposes the

constitutional and social bases of exceptions; Senftleben is more doctrinal about the validity of exceptions. The studies all show that lawfulness does not equate with the desirability of governance; that an excepted use may have serious distributional and reputational effects; and that a strict licensing rule can be lawful but may have a negative impact on research and competition. Records should therefore be kept in such a way as to be able to differentiate between the legal basis for a use and policy considerations that may have been discussed when considering the level of risk associated with a use to be increased, restricted or accepted.

The interaction between the DSM Directive and the AI Act needs to be the foundation of EU governance. General purpose AI model providers are bound by the obligations of Article 53(1)(c) of Regulation (EU) 2024/1689 and are required to have a policy in place to comply with Union copyright law, such as the identification and observance of rights reservations, expressed in accordance with Article 4(3) of Directive (EU) 2019/790. Under the same Article 53(1)(d), it also stipulates that those providers publish ‘a sufficiently detailed summary of the content used for training’ according to a template laid out by the European Commission’s AI Office. These are not necessarily deployer obligations or downstream user obligations that mean that every deployer or downstream user is a provider responsible for the summary. Even when these duties are recognised as an important governance innovation, they cannot do much to address the substantive issues of TDM scope, territoriality or output infringement, Quintais (2025) suggests. Similarly, de la Durantaye (2025) places the EU in the larger context of models of control, compensation and exception. The legal provisions thus give a sense of what the compliance obligations are, and the scholarship will help to understand that these compliance obligations are not a substitute for an analysis of copyright in view of the work and the jurisdiction.

Transparency is a governance mechanism that is disputed. Buick (2025) suggests that a training-content summary can also lead to a reduction in information asymmetry but fails to link a disputed work to a dataset and/or to be an effective remedy. Dornis (2025) focuses on disclosure rather than exploring the potential for protected expression to be legally relevant at a model or distribution level. It is a big difference; the publication of the Article 53(1)(d) summary may satisfy a formal requirement, but it is not a rule that all training acts are permitted, and that outputs may not infringe. The suggestion from this study is thus of a framework that is in addition to statutory: providers should connect the required policy and summary to source records; rights-reservation checks, memorisation and regurgitation testing; complaint investigation; and the ability to suspend, retrain and/or remediate problematic data or model behaviour.

UK Authorship and Output Liability

The UK law is the Copyright, Designs and Patents Act

1988 (CDPA). 9(3) says that if a work is computer-generated, and literary, dramatic, musical or artistic, then the author is the person by whom the arrangements are made necessary for the making of the work. A definition of ‘computer-generated’ is in section 178: a work that is not created by a human author but is generated by computer. This statutory provision is not a substitute for the criteria for a work to fall under copyright protection (originality, etc.), nor does it provide guidance on the handling of the use of modern prompt-based GenAI. Atilla (2024) suggests that section 9(3) could still apply in the case of “arrangements” and human intervention, while Mazzi (2024) raises doubts on how expressive control is provided and how original the prompt is. So, the scholarship is unresolved on application, and the statute is the first authority. The recording, selecting, arranging and post-generation changes bear more evidence of human creative contribution than does a prompt for governance only.

There are distinctions between the analysis of output liability and protectability. Sections 16 & 17 CDPA make copying a protected work, in whole or in part, a restricted activity and sections 18 & 20 cover the issues of copies and communication to the public. As such, Rosati (2025) and Diab (2024) distinguishes between the question of infringement in the creation of the work and the question of infringement of the work. In Getty Images (US) Inc v Stability AI Ltd [2025] EWHC 2863 (Ch), the High Court did not form a single view as to the legality of AI but rather said that each “element of the process” should be considered separately, including both training and model weights, and acts and generated signs that occurred in the territory. Hall (2026) and Ben-Daniel (2025) provide a critical interpretation of the judgment, which is the main authority. The framework implications are checking of output, for memorised or recognisable expression, logos, watermarks and repeated similarity in higher risk commercial deployments.

One problem is whether AI-generated content can be copyright protected as such. GenAI can aid original production with consistent human involvement, which is highlighted by Niyompatama and Lapatoura (2025) in the context of fashion design. In Elmahjub (2025), however, the case law holds that the raw autonomous GenAI output should not be protected by copyright. This does not imply that ‘AI-assisted’ can be added to a piece of work to solve the disagreement. Commercial exclusivity seeking organisations should therefore have documentation of all human selection, arrangement, revision and creative decision making, as well as separate consideration as to whether any third party expression has been reproduced. This distinguishes between proof of ownership and proof of infringement.

US Copyright Attribution, Copyrightability and Training

US law distinguishes between copyrightability, attribution-related information and the legality of training. The term

“original” in 17 USC section 102 only refers to works created by human authorship. According to the US Copyright Office’s Copyright and Artificial Intelligence, Part 2: Copyrightability (2025), material generated only by the AI system is not protected by copyright, and protection is not precluded by use of AI as an assistive tool, but rather to the extent that it is an expressive element of the work created by a human author. Section 1202 covers the “knowing” removal or alteration of copyright management information under certain conditions, but Kahveci (2023) notes that this is not a general right of attribution. Section 107 applies to copying for training. The court granted Meta’s motion for summary judgment, but noted that fair use is a fact-specific inquiry, and that there is no blanket rule that training GenAI is lawful on the specific evidentiary record. Similarly, the US Copyright Office’s Part 3: Generative AI Training (2025 pre-publication version) examines purpose, nature and quantity of works used, market impact, and access and licensing instead of relying on innovation to provide an automatic defence.

Governance, Power and Research Gap

The literature outlines the acts throughout the GenAI lifecycle that could be considered copyright-relevant and addresses competing models of TDM, fair use, transparency, authorship, compensation, and accountability. The value of GenAI governance is split between creators and model developers (Chesterman, 2025), and seemingly objective risk procedures can perpetuate power arrangements (Ulnicane, 2025). Taihagh (2025) is also able to show that none of these governance instruments can cover all risks that are interconnected, and Janssen (2025) demonstrates the need for governance instruments to evolve as technology, data practices and legal rules do.

Scholarship is typically arranged around one doctrine, lifecycle stage, or jurisdiction, and it seldom explains how a training organisation should blend one or more of the following elements in a single decision process: legal basis for training, provenance, rights reservations, licensing, market substitutions, human contribution, and similarity of output. It therefore does not clearly guide how to define low, medium, and high IP risk, responsibility, the type of evidence required, and when to escalate and re-evaluate.

This study connects key EU, UK, and US legal sources with leading doctrinal and governance research to create a life cycle-based framework for risk classification, evidential requirements, accountable actors, preventive and detective controls, escalation, and periodic review. It does not harmonise substantively different laws, but makes their differences manageable through one proportionate and auditable organisational process.

MATERIALS AND METHODS

The study takes doctrinal legal research, comparative legal analysis, and normative analysis approaches to

analyse IP governance of GenAI in the EU, UK and US. The first objective of doctrinal analysis is to analyse the legislation, case law and regulatory provisions in order to determine the current legal framework. To achieve the second objective, comparative analysis is used to identify similarities and differences between the three jurisdictions and their approaches to IP challenges arising from GenAI, as well as to examine and evaluate their respective positions. Normative analysis is directed towards the third objective, and seeks to critically evaluate legal gaps, inconsistencies and risks and to think about their possible reform. The combined methodologies offer a structured framework for recommendations to guide risk-based IP governance.

Method

Doctrinal legal research is the major approach, which entails systematic identification, interpretation and critical evaluation of legal rules and principles (Murati, 2023). It reviews the legal landscape surrounding copyright and GenAI, such as issues of training data, copyright infringement, originality, authorship, ownership, licensing, transparency, attribution and liability. Primary legal sources are regarded as the primary authority for what is currently law.

In addition to the doctrinal analysis, a comparative legal method is included. The EU, UK and US are chosen due to the different methods of AI and IP regulation. The study does not discuss the jurisdictions one by one, but instead uses standard analytical principles to identify overlaps and differences across jurisdictions. The comparative analysis considers the issues of using a copyrighted work for AI training, protecting AI-assisted and AI-generated works, accountability, transparency, legal uncertainty, and enforcement.

A comparative legal analysis was carried out by systematically analysing the EU, UK and US legal frameworks concerning GenAI and IP. Copyright protection, AI training data, authorship and ownership of AI outputs, infringement and accountability were the key areas compared. Legislative, case, regulatory materials and academic research from each jurisdiction were examined and categorised around these themes. Finally, similarities and differences were identified to evaluate the reactions of the different jurisdictions to similar IP-related risks associated with GenAI. The findings of this structured comparison guided the normative analysis as well as the development of a proportionate and risk-based IP governance framework.

Data Sources

Secondary legal sources are used in the research; legislation, Regulations, Judicial Decisions and authoritative Legal Instruments are considered Primary Sources. The EU analysis includes EU copyright law, relevant EU copyright law and the Court of the European Union jurisprudence for the EU AI Act, in particular. The study focuses on the Copyright,

Designs and Patents Act 1988, recent developments in AI and copyright policy, and case law in the UK (Intellectual Property Office, 2024). The research for the US focuses on the US Copyright Act and relevant case law and authoritative materials on copyright and AI. Secondary sources are peer-reviewed journal articles, academic books, legal commentaries, government reports, regulatory guidance and policy documents. New research published in the past few years is given greater emphasis to keep pace with the evolving legal and technological landscape of GenAI. Use of official materials from relevant governmental and regulatory bodies is also used to separate the known laws from new policy proposals.

Legal Analytical Framework

Structured doctrinal analysis and cross-jurisdictional comparison are used to analyse the collected legal materials. Identification and interpretation of relevant legal rules and principles in each jurisdiction is done first. Second, the findings are presented under typical categories of IP risk: training-data risk, infringement risk, authorship and ownership risk, transparency risk, attribution and provenance risk, commercialisation risk, enforcement risk and cross-border regulatory risk.

Third, the EU, UK and US positions are analysed for similarities, differences, legal gaps and areas of regulatory uncertainty. However, the analysis is able to differentiate between the binding nature of the legal rules, judicial interpretations, regulatory guidance, policy proposals and academic arguments, as there is no assumption that these sources are the same (Atadjanov, 2026).

Lastly, the comparative results are consolidated to create the proposed Risk-based Intellectual Property Governance Framework for Generative AI. IP risks are categorised as low, medium or high, based on three criteria: the likelihood of IP harm, the potential severity of the harm and the effectiveness of existing legal safeguards. Low-risk issues are those involving “limited potential harm” and “satisfactory legal protection,” which are issues that an individual or rights holder might not be harmed by, and there would be sufficient safeguarding of rights. Issues are considered to be medium-risk if the potential harm is significant or uncertain, and there is a lack of protection for the rights, or high-risk if the potential harm is substantial, and there is a lack of protection for the rights or substantial regulatory gaps. This classification offers a consistent foundation for proportionate responses for governance.

RESULTS AND DISCUSSION

Theme 1: Intellectual Property Risks Across the Generative AI Lifecycle

The results show that the potential threats to Intellectual Property (IP) with Generative Artificial Intelligence (GenAI) do not only stem from its output but also encompass the entire AI lifecycle from data collection to model building and commercialisation. GenAI has also a large number of examples of not being a simple

digital technology, but instead using massive datasets and complex models, which may raise uncertainty on copyright ownership, liability, licensing, and proprietary intellectual property asset defence (Al-Busaidi *et al.*, 2024).

IP Risks in Training Data Acquisition

An early and critical source of IP risk during training of a GenAI is the training data. Large language models and image-generation systems need huge amounts of data, including copyrighted images, written content, software code, and other creative works (Ko *et al.*, 2023). A major issue is whether collecting and preparing such material to train AIs constitutes fair use or a copyright violation. As Schubert and Barrett (2024) report, copyright concerns unlicensed use or exploitation of the protected work, whereas data governance concerns privacy, security, and legitimate data processing. However, as Hayes (2023) notes, AI creators argue that training a model does not simply replicate content but recognises patterns, while copyright holders contend that commercial AI systems take advantage of their creative efforts without permission or payment. Information found on the internet is not necessarily in the public domain, and web scraping can be subject to permissions and licences. Before deployment, the various text-and-data-mining exceptions in different jurisdictions also need to be taken into account by multinational organisations.

IP Risks During Model Development and Training

Additional IP risks arise when developing models, including who owns the models, who has access to the models and how to keep models under control. Co-ownership can be challenging as GenAI systems can include multiple stakeholders such as developers, researchers, open-source communities, and commercial entities, leading to uncertainty regarding ownership of the rights of models (Chen *et al.*, 2026). Confidentiality issues also emerge when organisations use their own unique data, know-how and commercially sensitive information to tailor the models. Instead of just cybersecurity issues, these resources can help give a business a competitive edge. Organisations could face significant IP challenges if they use internal research, proprietary processes or sensitive information without proper protection measures. (Vranopoulos *et al.*, 2023). In addition, it is difficult to prove infringement when the model is still being developed since it may be hard to determine if particular copyrighted works inspired the final model. In the age of AI, the concept of identifiable copying has become increasingly obsolete due to the complexity of AI systems.

IP Risks During Output Generation

Authorial rights, ownership and liability for infringement of output arises during the output generation. Once again, traditional copyright protection hinges on human creativity or intellect, while in the case of GenAI, content generation relies on a certain amount

of human influence, and the extent of influence, from minor prompts and edits, or choices, remains unclear as to whether this constitutes copyright ability or not (Xu, 2025). Furthermore, AI-generated content may also inadvertently be like that of already copyrighted material, which may lead to infringement in scenarios like publishing, software, advertisement and entertainment industry (Amjad, 2026). Establishing liability would be tricky as it may rest on either the provider of the artificial intelligence or the user or on organisations that supply the AI outputs for commercial purposes (Bhatti, 2026). Trusting providers' assurances is not a precaution that can be taken by organisations on an assume-everything basis. They need to develop their own tools to detect plagiarism, to check for violations or to guarantee legal compliant usage and publishing of AI generated content.

Theme 2: Comparative Legal Approaches to GenAI Intellectual Property Regulation (EU, UK and US)

The results reveal that the European Union (EU), United Kingdom (UK) and United States (US) have different models of how they are approaching regulatory strategies to address the intellectual property (IP) issues arising from Generative Artificial Intelligence (GenAI) because of variations in legal traditions, policy priorities, and approaches to balancing innovation with rights protection (Citizens Take Over Europe, 2026). While the three jurisdictions acknowledge the need for safeguards for creators and for responsible development of AI, there are a number of key differences with regard to access to training data, the transparency requirements, copyright ownership and liability (Chan *et al.*, 2024). This means that there is no single compliance approach for multinationals as the same GenAI activity can have varying legal implications in different jurisdictions.

A key question for all these jurisdictions is how to find a balance between safeguarding the interests of creators who are providing creativity inputs for the progress of AI while not unnecessarily hampering technological advancement. Thus, Quintais (2025) posited that the EU takes a precautionary and transparency-driven stance, the UK uses a rather flexible approach that builds on the existing regulatory framework, and the US mainly emphasises copyright principles and fair use/fair dealing and judicial interpretations. All these distinctions build a sense of uncertainty within the companies dealing in international matters as they are required to carry out their operations in accordance with different kinds of legal expectations.

European Union Approach

The EU has one of the most well-defined methods of tackling GenAI regulation through the interplay of copyright, data governance and the AI Act. The Act sets out conditions to be met by general-purpose AI (GPAI) providers, such as transparency and reporting, and copyright obligations (Sharma, 2026). Providers need to have copyright policies and provide information on

training practices in order to increase accountability and inform rights-holders of possible use of their copyrighted products. But it can often be hard to confirm training data, as AI models can sometimes be very large. The EU framework also covers text and data mining (TDM), a means of trying to balance innovation for AI with creator protection (Sharma & Kumar, 2026). However, the compliance standards and costs could create a disproportionate burden for smaller organisations, especially those with limited resources, and impact their participation in the development of AI.

United Kingdom Approach

Unlike the EU, the UK promotes existing laws, regulations and the governance of AI within sectors, to the advantage of having none that has a broad nature (Rough & Sutherland, 2024). In this approach attempts have been made to encourage innovation yet maintain the IP Security. It is debatable, however, in relation to a number of copyright issues, notably whether it is necessary to obtain any rights holder's consent to train the AI on copyrighted material. There is a focus on solutions, including AI industry-government relations and transparency policies, in government consultations (Huang *et al.*, 2024). The advantage of this UK version is that it removes the barrier by simplifying the ease of organisations to experiment and explore new AI technology. However, its malleability poses uncertainty as businesses have to grasp the application of past copyright principles when dealing with AI systems that are rapidly evolving (Farhad & Zakir, 2024). Multinational organisations have problems with this since following expectations of the UK may not help them meet the higher requirements of places like the EU.

United States Approach

The US approach to GenAI regulation is largely based on fair use principles and case law, rather than on a specific copyright law for AI. The creators of AI systems say that using copyrighted material enhances the breakthrough of technology, while copyright owners believe that their creative works are being used by commercial AI systems without their consent (Watiktinnakorn *et al.*, 2023). Fair use is a complex issue that will vary depending upon purpose, nature of the work, amount used and the effect on the market. The U.S. Copyright Office also puts the emphasis on human creativity with respect to copyright protection (Gaffar & Albarashdi, 2024). Work in the cases of selection, modification or arrangement by the human and when the human contribution to other works is a minimal contribution are more difficult to protect when they are created with the assistance of AI (Hutson, 2024).

Theme 3: Effectiveness of Existing Regulatory Frameworks in Balancing Innovation and Rights Protection

Results indicate that current IP and AI policies offer a framework for the management of GenAI risks, but are

not adequate for the complexity of GenAI. Traditional copyright protection is based on human creativity and recognisable authorship, whereas GenAI is about large-scale data processing and automated creation (Ramos-Zaga, 2025). There are multiple factors that need to be taken into consideration for effective regulation: creators' rights, innovation, enforcement, and jurisdiction.

Protection of Creators and Rights Holders

Copyright ownership, licensing and transparency requirements continue to be relevant for the protection of creators within the existing IP frameworks. Copyright is a key element of GenAI governance as AI systems are intricately dependent on creative works, such as texts, images, music, and software (Maurizio *et al.*, 2025). Copyright gives the creator the right to control reproduction, distribution and commercial exploitation, thus maintaining the economic value (Axelsson, 2025). But legal protection is not always coupled with effective enforcement. It is challenging to determine whether specific works are present in AI training sets due to the nature of how copyrighted materials are used in AI algorithms. Determining whether a specific work is present in AI training sets is difficult because AI algorithms process copyrighted materials into complex statistical patterns. The Mult jurisdictions and billions of sources constituting the development of AI present an additional hurdle in enforcement. Increased transparency and licensing can help to enhance traceability and offer economic advantages and legal security (Ashikuzzaman, 2025). However, if the licensing process becomes too complex it can be an expensive hurdle for smaller companies to be able to innovate with AI.

Support for Technological Innovation

Promoting technological innovation is significant, but it's crucial to do it in a manner that protects creators. Although tougher copyright regulations could impede innovation with the use of AI, clear and consistent guidelines can ease the uncertainty and prevent companies from being dissuaded from taking the plunge into AI solutions. The prospect of stricter copyright laws could certainly be a setback for creating AI, but well-defined laws with explicit guidelines will reduce uncertainty and allow companies not to be put off by the uncertainty of using AI tools. From the genealogy of the 4V of data, the richness and the variety of data are essential for developing GenAI; restrictive rules on the use of such training data can negatively impact startups or small companies that do not have their own data. However, when this rule is violated, and people use copyrighted materials freely, it may have a negative impact on the motivation of people creating new materials. Hence, the ongoing creation of incentives for human creativity and continued availability of high-quality content is essential to ensure continuation of AI's development (Mehta, 2026). Therefore, IP should provide a sense of trust and stability, not block innovation. The EU values transparency, the UK flexibility, and the US fair

use, but ownership, enforcement, and liability will remain unaddressed and/or non-existent between jurisdictions.

Theme 4: Towards a Risk-Based IP Governance Framework for Generative AI

The current legal landscape is insufficient to meet the new IP challenges of GenAI. While these regulations offer general guidance on copyright, licensing and AI regulations, they are not sufficiently detailed in practice to address issues of training-data ownership, copyright compliance, liability and commercial use of AI-generated content. So, organisations require both legal compliance and internal governance. A risk-based approach is suitable since the exposure to IP differs depending on what type of data is used, what it is being used for, how much human interaction is needed, and the commercial impact. Zhao (2026) suggests that risks should be assessed on a case-by-case basis based on the specific use of AI, instead of blanket prohibitions on all AI use.

Identification and Classification of IP Risks

To ensure effective GenAI IP management, all risks should be identified and classified across the GenAI lifecycle. When acquiring data, building models, creating outputs and deploying a model, organisations need to evaluate their exposure to IP, including copyrighted data, proprietary datasets, confidential information and third-party services. Proportionate controls are possible through a risk classification framework. Limited IP exposure exists with low-risk activities, such as internal experimentation. The medium-risk activities, which involve external AI platforms with organisation information or AI-supported analysis, are provided with stronger supervision because of confidentiality concerns (Kassa & Worku, 2025). Enhanced governance is needed for high-risk activities (such as commercial publication, proprietary model training, model integration in product) since they can have serious legal and reputational implications.

Documentation and Evidence Requirements

Documentation is essential to sound GenAI IP governance. Organisations should be able to show that reasonable steps have been taken to ensure the control of IP risks, particularly relating to copyright ownership, licensing and infringement claims. Proper documentation of responsible AI practices enhances accountability and bolsters defence in case of investigations or disputes (Gandhi *et al.*, 2025). Documentation should include information on data sources for training, licensing requirements, restrictions, and agreements with AI providers (Pawar *et al.*, 2025). Data provenance records are especially valuable for determining if data was legally acquired. Organisations should also document the model development, tuning, third-party involvement and human review. These records help establish an audit trail, enhance transparency, and pinpoint common risks and guide more responsible AI implementation practices.

Organisational Accountability and Governance Structures With GenAI, the governance of IP has to be straightforward due to the legal, technical, commercial and operational nature of challenges. Legal teams should review copyright and licensing requirements and contracts with the AI providers, and technical teams should oversee the datasets, system controls and security. For compliance teams, it is important to keep an eye on regulatory updates and ensure that they are in line with evolving requirements (Prasad, 2024). These functions should be coordinated via an internal AI governance structure which reviews high-risk applications and significant deployments. It's equally critical to raise employee awareness, as inappropriate use of AI can pose an IP risk. Organisations should educate on the proper use of AI, privacy, copyright restrictions, and the need for human supervision.

Technical and Operational Controls

Technical and operational controls are required during the whole life cycle of GenAI but must augment human judgment. Preventative measures involve dataset reviews, approved AI platforms and limiting confidential information, as well as contractual obligations for AI providers. Detective controls include checking output, monitoring, and comparing to protected works, but not based on similarity alone. Corrective controls are controls taken to correct problems found: content removal, investigation, legal review/improved procedures. AI is not enough to decide on legal responsibility (Drori & Te'eni, 2024), so human oversight is still necessary. Protection of proprietary datasets and confidential information also helps to protect trade secrets and competitive advantage (Habbal *et al.*, 2024).

Discussion

Comparative Analysis and Implications for Risk-Based Intellectual Property Governance

The comparative analysis shows how generative artificial intelligence (GenAI) has shifted the focus of intellectual property (IP) from a traditional copyright focus to a governance challenge throughout the IP's lifecycle. The EU, UK and US all acknowledge the importance of copyright to the outputs of AI, but have different liability frameworks for the risks involved in training the AI (GOV.UK, 2026). The EU has taken the toughest preventive measure in the form of the EU AI Act, which features copyright compliance rules and transparency requirements for providers of general-purpose AI models. The UK has taken a more incremental stance – it is building on current copyright policy and creating licensing, transparency and training data policies. The US is more dependent on already established copyright concepts, such as the doctrine of fair use and the interpretation of the law by judges. This results in difficulties for organisations working nationally (Awad, 2022).

The training data area is the area of greatest legal uncertainty. The EU's exceptions and restrictions for text

and data mining and its recognition of rights reservations complement the additional copyright compliance and transparency requirements in the AI Act (Farhat, 2025). The UK is still reviewing the licensing and exceptions/ rights reservations. Flexibility in the U.S. comes in the form of the fair-use doctrine, which is fact-specific.

The answer is that neither unlimited access nor universal licensing is a magic bullet. General exceptions could reduce the control and benefits of creators, and individual licensing of very large datasets could lead to unreasonable transaction costs. Data provenance, commercial purpose, scale of training, reservations on rights and probability of reproducing protected material are among the factors that can be taken into account using a risk-based approach (Manteghi, 2024). This helps towards the goal of making legal uncertainty workable and manageable through organisational controls.

The results confirm the existing literature, which indicates that the EU has a more precautionary stance when it comes to AI governance regulations, as it offers greater preventive protections than the UK and US in general. The comparative analysis also shows, however, that the effectiveness of preventive regulation does not mean that there is no uncertainty with regard to IP, in particular when it comes to tracing back rights-holders to training data. The present study builds upon prior literature by demonstrating that regulatory strength needs to be measured beyond the presence of legal requirements and also based on its ability to identify, document and mitigate IP risks.

The comparison emphasises how important it is to be transparent when enforcing IP rights. The significance of the EU training-content disclosure requirements is so that rights holders can be informed whether their works have been used or not. But it's not enough to be transparent to be traceable or to be paid (European Commission, 2024). A summary of the training data might not enable the rights holders to identify specific works or establish infringement. There are comparable issues with evidence in the UK and US. Effective governance should demand records with the sources of data, licensing and reservation of data rights, risk assessment and remedial action (Alabi, 2023). Documentation would help to enhance accountability and evidence for regulatory and judicial review.

The results address the research question by supporting the fact that there is no single jurisdiction that can offer a comprehensive solution. Preventive governance is stronger in the EU, regulatory flexibility in the UK and contextual flexibility in the US via copyright doctrine. It would be better to have a working system that would link these strengths rather than try to "harmonise" copyright systems (Ahern, 2025).

There should be six principles that guide the functioning of the framework: Risk Identification, Legal Classification, Proportionality, Accountability, Documentation and Escalation. Limited controls should be necessary for low-risk activities having to do with material that is

owned, issued or permitted. For high-risk activities with uncertain origins, commercial training on a large scale, a high volume of third-party copyrighted content and/or international deployment, increased legal review, licensing assessment, technical controls and audit evidence should be implemented (GOV.UK, 2026).

This mirrors Ulnicane (2025), who is concerned about power and accountability, and Kolawole (2025), who is concerned about flexible governance in the context of evolving technology. In sum, the results show that successful GenAI IP governance will demand a change from a reactive copyright enforcement approach to a more proactive, proportional and auditable approach which must be maintained throughout the lifecycle of the AI tools. This will set the groundwork for the proposed framework.

Contribution to Knowledge

The main contribution of this paper is combining comparative IP analysis with a structured, risk-based governance perspective. The study does not aim to harmonise the legal systems of the EU, UK, and US, but rather to understand how the assets of these different systems can inform organisational governance. The study adds a “lifecycle” dimension, linking risks to training data, output-related risks, transparency and accountability, and enforcement. The low, medium, and high-risk classification also offers a mechanism for analysis that enables a connection between the nature and urgency of IP risks and proportionate governance response

Practical Contribution

The proposed framework offers a practical approach for organisations to manage GenAI-related IP risks. Organisations can identify IP risks, categorise risk levels, analyse applicable laws, apply proportionate controls, record decisions, and escalate higher-risk activities for further legal and/or management review. Activities involving clearly owned, licensed or allowed materials can be more likely to have routine controls applied, whereas activities where the data provenance is not known or the data being used is extensively commercial training, a substantial amount of third-party content, or may be potentially infringing outputs should be more likely to have stronger legal review, licensing assessment and technical safeguards and audit requirements applied.

Limitations

The study has several limitations. First, its doctrinal and comparative approach does not provide empirical evidence of organisations’ actual practices in GenAI IP governance. Second, the proposed risk classifications are not legally defined categories, but rather analyses and might have to be adjusted to specific organisational and jurisdictional settings. Third, the legal position may evolve over time as GenAI technologies, legislation, regulatory guidance, and judicial decisions change rapidly. The suggested framework is not intended to remove disparities between the EU, the UK, and the US. Rather, it offers a

shared governance approach wherein organisations can pinpoint legal uncertainty, evaluate IP risks, and decide on suitable controls. The framework will need to be reviewed regularly as law and technology evolve.

CONCLUSION

This study explored how to fortify IP governance in the context of generative artificial intelligence (GenAI) through a comparative legal review of the European Union (EU), United Kingdom (UK), and United States (US). The results show that GenAI has shifted the IP governance landscape from a largely reactive approach to single copyright issues to a constant governance challenge, from data collection to model training, from output generation to commercialisation, from transparency to attribution, and to enforcement.

The comparative analysis found significant differences between the three jurisdictions. The EU offers the most structured and proactive solution, particularly through the EU AI Act’s obligations and transparency requirements related to copyright. But the results show that transparency is not enough to address issues of training-data provenance, reservation of rights, infringement, and/or remedies. In the UK, the approach is more iterative, with current copyright principles serving as the basis while the policy debate on licensing, training data, and AI-generated works continues.

One key conclusion is that training data is one of the largest areas of legal and organisational risk. Whether using copyrighted content for training is legal will depend on factors such as data provenance, exceptions, rights reservations, licensing, commercial use, scale, and the likelihood of future reproduction of protected content. Based on the above, the study’s findings can be summed up as follows: data provenance should be treated as a continuous governance control process rather than a transparency requirement. When provenance cannot be established, alternatives might include using a license, public domain material, synthetic data, or limitations on the use of specific data sets.

The study also shows that output risks cannot be fully isolated from earlier stages of the GenAI lifecycle. The question of authorship, originality, ownership, substantial similarity, and attribution is unclear from one jurisdiction to another. In such situations where ownership or protection of the AI-assisted outputs may be contested, human contribution matters more. Meaningful selection, editing, arrangement and creative decision-making by people, and information about training sources, licences, rights reservations, development decisions and risk assessments, should be documented by organisations.

Conflict of Interest

The author declares that there are no conflicts of interest regarding the publication of this article.

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This research received no external funding.

Data Availability Statement

No empirical dataset was generated or analysed in this study. The research is based on publicly available legislation, judicial decisions, regulatory and policy materials, and published academic literature. The sources relied upon in the analysis are identified in the reference list.

Author Contribution Statement

Srija Yerram is the sole author of this study and was responsible for the conceptualisation, legal and comparative analysis, methodology, investigation, interpretation of findings, development of the proposed governance framework, preparation of the original manuscript, and review and editing of the final article.

Ethics Statement

This study employed doctrinal legal research, comparative legal analysis, and normative analysis using publicly available legal, regulatory, policy, and academic sources. It did not involve human participants, personal data collection, clinical research, or animal subjects. Therefore, institutional ethics approval and informed consent were not applicable.

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