

## Copyright Law and the Use of Artificial Intelligence in Academic Works in the Thai Higher Educational Institutions

Treeneat Sarapong<sup>1†</sup>, Noppanun Supasiripongchai<sup>2</sup>, Patrawan Rattanakaset<sup>2</sup>,

Saowalak Sarapong<sup>3</sup> and Nutt Sukavejworakit<sup>2</sup>

<sup>1</sup>Faculty of law, Ubon Ratchathani University, Ubon Ratchathani - 34190, Thailand

<sup>2</sup>School of Law, University of Phayao, Phayao - 56000, Thailand

<sup>3</sup>Faculty of Liberal Arts, Ubon Ratchathani University, Ubon Ratchathani - 34190, Thailand

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The article considers the use of artificial intelligence (AI) in academic writing, which may involve using the work of others without proper acknowledgement of the authors and information sources, or the use of non-existent information, thereby affecting academic integrity and ethics. It found that resolving issues related to copyright infringement through AI requires amendments to the Thai Copyright Act 1994. First, such amendment should ensure that the use of AI to reproduce or modify copyright works must first obtain authorization from the author or copyright owner. Second, such amendment should ensure that if AI is used to create a work without elements of human authorship, it would not be eligible for copyright protection, but if AI is used merely as a tool, with the author applying their own effort, skill, and labor in the creative process, then such work could be eligible for copyright protection and copyright would be owned by the human author. Third, the requirement of sufficient acknowledgement of the authors and information sources must be inserted into the copyright exceptions in paragraph two (1) (6) and (7) of section 32 of the CA 1994. Additionally, higher education institutions should formulate guidelines on the use of AI for lecturers, researchers, academics, and students, which also requires proper acknowledgement of the authors and sources.

**Keywords :** Copyright Law, Artificial Intelligence, Plagiarism, Academic Ethics, Educational Institutions

Currently, artificial intelligence (herein after called AI) is being used in academic writing and this process may involve misrepresenting others' work as one's own without proper acknowledgement of the authors and information sources, or even relying on non-existent information.<sup>1</sup> Such practice diminishes the value of academic work and undermine the credibility of academic research, as well as damaging the integrity or reputation of scholars.<sup>2</sup> The use of AI to write or even review academic work without the researcher's own diligence and analytical effort could be considered as an act of dishonesty or cheating which could potentially violate academic ethics.<sup>3</sup>

Furthermore, in the context of employment, academic institutions and research institutions expect academics and researchers to use their intellect to produce academic works and develop knowledge in exchange for compensation as prescribed by their employment contracts. Ignoring AI-generated plagiarism may result

in students and researchers lacking critical thinking and analytical skills, leading to an absence of new knowledge creation since academic works produced by the use of AI may be mere reformulations of existing data.<sup>4</sup> Moreover, there is the issue of using the works of others without proper acknowledgement of the authors and information sources which poses significant legal challenges.<sup>5</sup> Since AI offers more opportunities for academic misconduct, it is essential to consider the legal measures related to the use of AI in creating academic work and formulate clear standards and conditions for its use.<sup>6</sup> This will help foster a better understanding of AI utilization without infringing copyright and without violating academic ethics and integrity.

### Recognizing the Legal Problems

The use of AI as a tool for creating academic works may involve copying the work of others without authorization of author and proper acknowledgement of the authors and information sources, which could result in copyright infringement and a violation of ethics and professional standards in academic work.

<sup>†</sup>Corresponding author: Email: treeneat.s@ubu.ac.th

Therefore, the legal issues to be addressed in this research article can be divided into two main points: 1) the issue of copyright infringement arising from the use of AI, and 2) the issue of ethical and academic misconduct arising from the use of AI.

#### Issues of Copyright Infringement Arising from the Use of AI

The Copyright Act B.E. 253A.D. 1994) of Thailand (hereinafter called CA (1994) does not specifically address the issue relating to the use of AI in the creation of copyright works. It is unclear whether the use of AI for creating copyright works for educational or research purposes requires proper acknowledgement of the authors and information sources. Furthermore, if such information sources are not cited, it raises the question of whether the exceptions to copyright infringement would still apply.

Typically, AI-generated works might involve copying from other copyright materials without authorization. This could occur through methods such as verbatim copying, paraphrasing, summarizing, translating from another language, or restructuring the content, all without providing acknowledgement of the authors and information sources and this could constitute copyright infringement.<sup>7</sup> One notable case of copyright infringement involves the use of AI. Studies have found that AI developers often use online content, such as news articles, magazines, and digital media, to train AI models. In particular, AI have been trained for commercial purposes using these materials without obtaining authorization from the copyright owners, thereby violating copyright laws.<sup>8</sup>

The act of reproducing or adapting copyright works, as described, constitutes copyright infringement under the CA 1994. Section 15 of the Act stipulates that the copyright owner has the exclusive right to reproduce, adapt, or communicate to the public of their work and may grant authorization to others with or without conditions.<sup>9</sup> Section 4 of the CA 1994 defines the term 'reproduction' as any method of copying, imitation, duplication, molding, sound recording, video recording or sound and video recording for the significant parts of the original or copies, whether in whole or in part.<sup>10</sup> The term 'Adaptation' is defined as a reproduction by transformation, improvement, modification or emulation of the original work for the significant part without a manner of creating a new work whether in whole or in part. For literary works, it shall include a translation, a transformation or a compilation of the work by means of selection and arrangement. Using AI

to reproduce or adapt copyright works including literary works without the authorization of the copyright owner is a violation of Section 27, which states the reproduction, adaptation, or communication to the public of copyright works without authorization shall be deemed an infringement of copyright.<sup>11</sup> Section 69 ensures that any person who infringes the copyright according to section 27, will be liable to a fine from twenty thousand baht up to two hundred thousand baht and if the offence is committed with commercial purposes, then the offender shall be liable to imprisonment for a term from six months up to four years or to a fine from one hundred thousand baht up to eight hundred thousand baht, or to both.<sup>12</sup>

However, if the researchers use AI to create work with proper acknowledgement of the authors and information sources, it may qualify for the copyright exception in Section 33. In this instance, Section 33 provides that a reasonable recitation, quotation, copying, emulation or reference in part from a copyright work with an acknowledgement of the ownership of copyright in such work will not be deemed an infringement of copyright, provided that paragraph 1 of section 32 is complied with.<sup>13</sup> In order to be exempted under the exception in Section 33, it requires that the conditions in Paragraph 1 of Section 32 must be satisfied. Paragraph 1 of Section 32 stipulates that an act against a copyright work of another person which does not conflict with a normal exploitation of the copyright work by the copyright owner and does not unreasonably prejudice the legitimate right of the copyright owner will not be deemed an infringement of copyright.<sup>14</sup>

In the Supreme Court Decision No. 2546/1908, the Court clarified that the exception under Section 33 applies when a part of the copyright work is cited appropriately and the ownership of the copyright is recognized. In that case, the defendant copied approximately 30 pages from the plaintiff's 150-page writing. Although this constituted a part of the copyright work, the copied content was deemed essential and substantial, thus exceeding the reasonable limit and still being considered copyright infringement. Furthermore, merely listing the author's name and work in the bibliography was insufficient to acknowledge the specific parts that had been copied. In this context, proper acknowledgement would require footnotes or in-text citations, with page numbers clearly specified.<sup>15</sup> This approach suggests that for the work created by using AI to fall under the exception in

Section 33, proper acknowledgement of the authors and information sources within the text, including footnotes or in-text references with page numbers, is necessary. The court held that including references only in the bibliography without specifying the information sources in the text and footnotes was inadequate to claim the copyright exception.<sup>16</sup> Therefore, using AI in academic or research works, with proper acknowledgement of the authors and information sources as outlined above, can be justified under the copyright exception in Section 33.

The use of AI as a tool to create works may be justified under the exceptions under paragraph two of section 32 of the CA 1994. Paragraph two of Section 32 provides that:

‘Subject to paragraph one, any act against the copyright work in paragraph one shall not be deemed an infringement of copyright, provided that the act is each of the followings:

- (1) research or study of the work which is not for profit;....
- (6) reproduction, adaptation, exhibition or display by a teacher for the benefit of his teaching, provided that the act is not for profit;
- (7) reproduction, adaptation in part of a work or abridgement or making a summary by a teacher or an educational institution so as to distribute or sell to students in a class or in an educational institution, provided that the act is not for profit’.<sup>17</sup>

However, the problem with these above exceptions is that they allow the use of copyright work without the requirement of sufficient acknowledgement of the authors and information sources. For example, the use of AI as a tool to create works for educational or research purposes without authorization and proper acknowledgement of the authors and information sources can be justified under the copyright exception for research and study in paragraph 2(1) of section 32 since this exception only requires that the work is used for research or study purposes and not for profit, but does not require to provide sufficient acknowledgement of the authors and information sources.<sup>18</sup> Similarly, in the case of the copyright infringement exception for teachers under paragraph two (6) of section 32, it allows teachers or instructors to reproduce, adapt, exhibit or display the copyright work for the benefit of teaching, as long as it is not for profit, without any requirement of acknowledgement of the authors and information sources. Additionally, the exception under paragraph two (7) of Section 32 permits teachers or educational

institutions to reproduce or adapt part of a work, or make a summary of the works for distribution or sale to students in a class or in an educational institution, provided it is not for profit, but again, there is no requirement of sufficient acknowledgement of the authors and information sources.<sup>19</sup>

The lack of a requirement of sufficient acknowledgement of the authors and information sources allows for the use of AI as a tool in creating works for educational or research purposes to be justified under these copyright exceptions in paragraph two (1), (6), and (7) of Section 32, so they are inconsistent with the moral right of the author to be identified as the creator of the work under Section 18 of the CA 1994. The absence of sufficient acknowledgement of the authors and information sources does not support the ethical practice of academic integrity, which mandates giving credit to the original creators by acknowledging who owns the work being used in the creation of new works. This is a key practice in maintaining ethical standards and honoring the intellectual contributions of others.

The CA 1994 does not explicitly mention whether works created using AI would be considered works protected by copyright. According to the CA 1994, the term ‘author’ is defined as a person who makes or creates any work, which is a copyright work by virtue of the CA 1994.<sup>20</sup> This definition aligns with the principle of originality, which requires that a copyright work must be created from the labor, skill, and judgment of author, and must not be a copy of someone else’s work.<sup>21</sup> Thus, copyright has never been granted to the works that lack human involvement or elements of human authorship which is a fundamental requirement for copyright, so the creation of a copyright work requires the author’s own effort and labor.<sup>22</sup>

If AI is used to create a work without elements of human authorship or human contribution in the creation process, it would not be considered a creative work that reflects the author’s effort, and therefore, it would not be eligible for copyright protection.<sup>23</sup> However, if AI is used merely as a tool, with the author applying their own effort, skill, and labor in the creative process, then such work could be eligible for copyright protection and copyright would be owned by the human author. Nonetheless, this principle is not clearly stipulated in the Thai CA 1994.

Further, the use of AI to adapt copyright work might not be justified by section 11 of the CA 1994. In this instance, Section 11 provides that copyright in

the work which is an adaptation of a copyright work done with the authorization of the copyright owner vests in the person who makes such adaptation but without prejudice to the copyright owner in the work, created by the original author, which is adapted.<sup>24</sup> Under this provision, if a copyright work is adapted with the authorization of the copyright owner, then the person who adapts the work may obtain copyright in the adapted version without affecting the rights of the original copyright owner. It is important to note that Section 1 applies only to adaptations of copyright works with the authorization of the copyright owner, so if AI is used to adapt a copyright work without authorization of the copyright owners, then the person who adapts the work will not obtain copyright in the adapted version under Section 11 and it would also constitute copyright infringement. This illustrated the need for clearer provisions of the CA 1994 in relation to the use of AI to create or adapt the copyright work.

#### **Issue of Ethical and Academic Misconduct Arising from the Use of AI**

The use of AI in academic work raises serious concerns regarding ethical and academic integrity, particularly in cases of plagiarism, fabrication, misrepresentation, or falsely claiming others' work as one's own.<sup>25</sup> This includes not genuinely creating the work oneself, but instead using others, or tools like AI, to produce academic work and then presenting it as one's own. Other unethical practices include self-plagiarism, where one recycles their own previous work as if it were new or commissioning work and buying essays.<sup>26</sup> In Thailand, there are currently 14 cases under investigation involving eight academic institutions.<sup>27</sup> From an academic standpoint, these actions are considered severe violations of ethical and professional standards in academic work. The concept of plagiarism is broader than copyright infringement and is more relevant and complex in the context of academic work. It extends beyond determining whether a legal infringement has occurred to assessing whether the behavior demonstrates academic honesty and adherence to professional standards. It involves evaluating whether the actions constitute cheating or dishonesty.

In some cases, a scholar might be guilty of plagiarism without necessarily infringing copyright laws. Plagiarism focuses on the ethical dimensions of authorship and academic integrity, questioning whether the individual has followed the professional and ethical norms of their field. It is a matter of

assessing honesty in academic conduct, rather than strictly legal copyright compliance.<sup>28</sup>

The legal ambiguity arises from whether using AI to create academic work without sufficient acknowledgement of the authors and information sources constitutes a violation of laws governing academic ethics and integrity. For higher education institutions, Section 70 of the Higher Education Act B.E. 2562 (A.D. 2019) (hereinafter called HEA 2019) prescribed that to uphold the standards of higher education, principles of good governance, and academic integrity, no person shall hire, engage, or use other persons to produce academic work for use as part of a higher education program, or for submitting academic work as part of a request for academic positions, promotions, or salary adjustments, regardless of whether compensation is involved.<sup>29</sup> Section 77 of the HEA 2019 stipulates that any person who violates Section 70 will be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht, or both.<sup>30</sup>

However, Section 70 of the HEA 2019 remains unclear on whether using AI to create academic work would be considered equivalent to hiring, engaging, or using other persons to produce academic work. The provision uses the term 'other persons', but AI is not a human and lacks legal personhood, which raises the question of whether the use of AI falls under the definition of hiring, engaging, or using 'other persons' as per Section 70. Consequently, this legal gray area may result in AI usage not being classified as a violation under this provision.

According to the Announcement of the Office of the Civil Service Commission for Higher Education Institutions regarding the criteria and procedures for appointing individuals to the positions of Assistant Professor, Associate Professor, and Professor B.E. 2564 (A.D. 2021) (hereinafter called the Announcement 2021), ethical and academic standards must be considered when determining academic positions. The guidelines stipulate that (1) academic integrity must be upheld, meaning that one should not present others' work as their own, not plagiarize others' work, not fabricate data or facts that do not exist, not falsify data or facts, and not publish the same work in more than one academic journal in a way that misleads others into believing it is new research.<sup>31</sup> Additionally, one must not copy any content from their own previous works without proper citation according to academic standards. And (2) there must be sufficient

acknowledgement of the authors and information sources from which information is derived to provide evidence of research conducted.<sup>32</sup> Therefore, using AI to create academic work that involves copying others' work without proper citation as per academic standards would be considered a violation of academic ethics and integrity under the Announcement 2021. This applies even if the copying was unintentional and without the knowledge that others' work was being duplicated.<sup>33</sup>

Although the users or researchers, who use AI like ChatGPT, cannot control how it reaches an output and whether it plagiarizes or copies matter from existing sources, they might be liable under the Announcement 2021. The Announcement 2021 provides that if the applicant has used academic work of others in the application for academic positions by claiming that the work of others is his or her own academic work, the Council of Higher Education Institutions shall suspend the consideration of the request for an academic position.<sup>34</sup> In the event that the approval for an academic position has already been appointed, if it is later discovered or known that the academic work used in the application for that academic position was plagiarized from the work of others, the Council of the Higher Education Institutions shall revoke the academic positions.<sup>35</sup> These provisions require the Council of Higher Education Institutions to take disciplinary action according to the facts and the seriousness of the offense on a case-by-case basis, and prohibit the offender from applying for an academic position for a period of not less than five years, but not more than ten years from the date on which the Council of Higher Education Institutions made the decision.<sup>36</sup>

For example, a lecturer or researcher may use a ChatGPT to assist in writing an academic work, and the ChatGPT incorporates content from another person's work into the lecturer's work, so the lecturer may not have intended to plagiarize, but using a ChatGPT could lead to the unintentional use of someone else's work or the reproduction of parts of another person's articles without creating new work.<sup>37</sup> This includes scenarios where AI is used to create academic content by prompting it to write abstracts, introductions, literature reviews, research methods, results, and conclusions, or to write entire articles in new ways by specifying what should be included in the work. As a result, the academic work becomes merely an exercise in command skills, rather than a demonstration of genuine scholarly effort and

creativity. According to a study by Faisal R. Elali and Leena N. Rachid, where prompts were used to instruct AI to write abstracts, introductions, methods, results, and conclusions of research papers, it was found that AI provided information from the Market Scan database, which is not publicly accessible and requires direct purchase from the company for access. However, the AI like ChatGPT fabricated this information, and it was also found to have falsified research results, violating academic ethics and integrity. Using AI as a tool for creating academic work differs significantly from using search engines to find information to answer questions. In response to such practices, Japanese higher education institutions have issued directives prohibiting such actions.<sup>38</sup> Such practices are considered cheating or advanced technological plagiarism, representing an avoidance of learning and a clear signal of educational failure.

Using AI to create academic work, especially when it involves fabricating information or facts that do not exist, or falsifying information or facts, violates academic ethics and integrity as prescribed by the Announcement 2021. AI-generated works may have errors or inaccuracies regarding the correctness of the data and facts created by the system, which may be false, non-existent, or never actually occurred.<sup>39</sup> For instance, when using tools like ChatGPT to assist in writing articles, the references may be inaccurate or fabricated by the program itself. An example of this is when A0049 is used to search for case law, but the cases referenced by the AI do not exist. A notable case involved Steven Schwartz, an attorney for Roberto Mata from Levidow & Oberman law firm in New York, who admitted to using ChatGPT to supplement information in documents submitted to the Court, but some of the cases referenced by ChatGPT were found to be non-existent.<sup>40</sup>

The Terms of Use for ChatGPT clearly state that the users of AI are responsible for content, including ensuring that it does not violate any applicable law.<sup>41</sup> Therefore, if there are inaccuracies, errors, or unauthorized use of another person's works, the users of AI must bear full responsibility. This highlights that the information processed by AI may incorporate others' works, so the user of AI should exercise judgment and carefully verify the information provided by AI because if such information is incorporated into one's work, it could undermine academic credibility. Thus, AI should be utilized only as a tool for research, but its outputs should not be fully relied upon.

Although the use of AI to create academic works without sufficient acknowledgement of the authors and information sources violates the Announcement 2021, the scope of this announcement is limited. It only applies to the consideration of academic positions for lecturers in higher education institutions and does not cover other instances of academic work creation. Therefore, if a lecturer does not submit their academic work for academic promotion, the Announcement 2021 does not apply. For example, if a lecturer uses AI to write research papers or textbooks without sufficient acknowledgement of the authors and information sources but he does not submit these works for academic promotion and uses them solely for teaching, then announcement 2021 does not apply to such research or books. This shows that the Announcement 2021 has a narrower scope compared to Section 70 of the HEA 2019, which applies to academic work created for educational purposes in higher education programs or for use in applications for academic positions, promotions, or salary adjustments. However, Section 70 specifically addresses the hiring, engaging, or using others to create academic work and may not cover cases where AI is used for academic work creation, as AI is not human and lacks legal personhood. Therefore, it may not be classified as hiring, engaging, or using other person to produce academic work under Section .70

To address this gap, Section 70 of the HEA 2019 should be amended to cover the use of AI in academic work creation. It is essential to ensure that sufficient acknowledgement of the authors and information sources is provided by the user of AI and no plagiarism has occurred. Also, the legal framework should be updated to reflect the realities of AI-generated academic work and the principles of academic integrity are upheld regardless of the tools used.

### **French Approach**

France places significant importance on creators of copyright works, also known as ‘original works’ which are protected by law based on their reflection of creativity, spirit, emotion, and the intellectual capacity of the creator, embodying human spirit. Article L.1-111 of the French Intellectual Property Code states that the author of a work of the mind shall enjoy an exclusive property right in that work by virtue of its creation, and as such, they hold sole intangible rights over it, applicable to all works.<sup>42</sup> According to this provision, only natural persons or legal entities can hold copyright, while processing

systems like AI do not qualify as legal or natural persons under the law and thus cannot be granted copyright protection.<sup>43</sup> AI is not considered a creator capable of producing works born from human thought and spirit; rather, it is merely a tool operating through algorithmic processing.<sup>44</sup> Therefore, it is essential to distinguish between works created through the effort and creativity of humans assisted by AI and those automatically generated by AI without any human effort. Consequently, works produced automatically by AI, without human labor and creativity, may not qualify for copyright protection. This approach maintains the principle of intellectual protection for works created by human authors.<sup>45</sup>

On September 12, 2023, members of the French Parliament proposed amendments to the Intellectual Property Code regarding copyright, specifically addressing the use of copyright works in the development and operation of AI systems, as well as guidelines for the creation and ownership of works generated by AI. The key points of the proposal are as follows: 1) It mandates that authorization must be obtained from the author or copyright owner before AI can use their work to create new content. The resulting work would be jointly copyrighted, and the benefits would be shared between the original creator and the party using AI to generate the new work. And 2) it requires that all works generated by AI must include references to the original works used and the names of the creators or works that were used in the algorithmic process of AI-generated content. However, this proposal has sparked debate, particularly concerning the requirement to obtain authorization from authors before incorporating their works into AI systems. Critics argue that this requirement conflicts with the technical realities of AI, particularly the functioning of algorithms and the deep neural networks that drive AI learning, which require vast amounts of data for training and development. Furthermore, the need for explicit authorization could pose significant obstacles to the advancement of AI technology.

However, the French Intellectual Property Code provides exceptions for fair use of copyright works that have been made public, where the author cannot prohibit such use and it is not considered copyright infringement, provided that the author’s name and source are clearly cited. These exceptions apply to the following types of works: 1) Analysis and references to brief content in the context of criticism, debate, study, scientific research, or other similar informational

purposes; 2) Media reviews that present and compare different opinions from various journalists on the same topic; 3) The dissemination of parliamentary debates, academic works, court rulings through print or television media, aimed at providing current information; 4) The publication of artwork depicted in images from public auctions conducted in France by state officials; 5) Presentation or reproduction for teaching, educational, or research purposes by students, teachers, or researchers directly involved, without any commercial exploitation, profit, or compensation, unless otherwise agreed upon for the transfer of reproduction rights under the conditions set forth in Article L.10-122

Regarding the copyright exception for study and research purposes, Article L.122-5, Section 3(e) of the French Intellectual Property Code stipulates that reproducing and presenting excerpts from published works by others is permitted for educational and research purposes. This applies to students, teachers, professors, or researchers directly involved, aiming to foster understanding, support discussions, development, or debates without any commercial exploitation or direct or indirect compensation. To qualify for this exception and avoid copyright infringement, the author's name and source must be clearly cited.<sup>46</sup> However, this exception applies only to works used in physical documents, not to educational and research works published on digital media (websites). Posting educational or research content online that includes any part of a copyright work requires proper use rights, and the author or their representatives must be informed accordingly. Thus, digital dissemination of such works remains subject to stricter copyright protections and notification requirements.

### **Appropriate Approach for Thailand**

To address copyright infringement involving the use of AI, the following changes should be made to the Thai CA 1994. First, it should be explicitly stated that using AI to reproduce or adapt copyright works requires prior authorization from the author or copyright owner. Second, it should be clearly defined that if AI is used as a tool for creating works, the author must apply their own effort, skill, and labor in the creative process for the work to be eligible for copyright protection. This ensures that elements of human authorship and creativity are fundamental requirements for copyright protection. Third, the requirement of sufficient acknowledgement of the authors and information sources must be inserted into

the copyright exceptions in paragraph two (1), (6), and (7) of Section 32 of the CA 1994. This would ensure that the use of AI as a tool for creating works for education, research, and teaching purposes must provide sufficient acknowledgement of the authors and information sources in order to be justified under these copyright exceptions. Such acknowledgement or citation should clearly indicate the author's name or the title of the work used in the AI's algorithmic process.

The approach to addressing ethical and academic integrity violations resulting from the use of AI should involve amending Section 70 of the HEA 2019 to apply to cases where AI is used to create academic work without applying one's own effort or thought and without citing sources. Currently, although using AI to create academic works without citing sources violates the Announcement 2021, the scope of this announcement is limited. It applies only to the consideration of academic positions in higher education institutions and does not extend to other cases of academic work creation. Thus, it has a narrower scope than Section 70 of the HEA 2019, which governs the creation of works for educational purposes in higher education programs or for use in academic promotion, position adjustments, promotions, or obtaining higher salaries or other benefits. However, Section 70 applies specifically to the hiring, engaging, or using other persons to produce academic work and may not cover the use of AI in academic work creation because AI is not a human and lacks legal personhood.

In addition to amending the law, higher education institutions should formulate guidelines on the use of AI for lecturers, researchers, academics, and students. These guidelines should clearly state that using AI to create entire works without applying one's own effort or thought, without citing sources, or copying content through AI, such as issuing commands to algorithms to generate content and then copying that output as one's own, is a violation of academic ethics and integrity. For example, if a lecturer instructs AI to write a literature review section and then copies that content into his own work, this is considered copying without proper acknowledgement of the authors and information sources and is not self-created, violating academic ethics and integrity. However, if AI is used as a supportive tool for academic work, offering suggestions, aiding in learning, designing research plans, or gathering information from other sources without copying others' work entirely or partially, and

without having AI write or create the work entirely, then it is not considered unethical.

The guidelines should include a clear ethical and academic integrity framework for the use of AI as follows. First, AI-Assisted Plagiarism: it should be explicitly stated that copying others' work using AI constitutes academic fraud and violates ethical and academic standards.<sup>47</sup>

Second, Proper Citation and Verification: if AI is used as a tool for research or inquiry, researchers must cite the sources of the information and seek out the original works that AI utilized in generating content to verify their existence. Proper citation and verification of the sources of the information that AI utilized in generating content should be considered as one of the expected effort, skill, and labor of the researcher to avoid plagiarism and copyright infringement when using AI like ChatGPT. When AI contributes to the creation of a portion of the academic work, it must be clearly indicated as content generated by AI algorithms, making it evident to readers that it is not the researcher's original creation. It is crucial to verify AI-generated content by looking for the original source of information, particularly when the information is used for research or academic work. The researchers themselves should be responsible for finding the original source of information that AI utilized in generating content. It is difficult for researchers to use the output from AI to find the original source of information, so some scholars and universities recommend that the researchers should not use AI tools which do not provide access to the original sources or create fake citations.<sup>48</sup> They recommend researchers to use some AI tools, like Consensus and Petal, since these AI tools are designed to generate answers based on real sources and may include citations, while these tools are designed to ensure that the researchers can rely on accurate and reliable information when citing sources. However, even if these AI tools provide citations, it is also important for researchers to verify the accuracy of the information that AI utilized in generating content. The intention of the researchers to avoid plagiarism by adopting proper citation should also be a factor in deciding whether they have plagiarized. Plagiarism is defined by many universities as the act of claiming work of someone else, including that generated by AI, as his or her own.<sup>49</sup> By failing to provide proper citation and disclose the involvement of AI in their academic works, researchers violate the

principles of academic integrity, which emphasizes on the importance of original thought and proper citation for all sources of information, including the use of AI in their academic works. Many universities in Thailand such as Chulalongkorn University indicates that citing generative AI technology in academic works is essential to maintain transparency and uphold ethical principles, so any academic writing that generative AI provides has to be cited.<sup>50</sup> This means that if the researchers use AI as a tool for creating academic works, then they must disclose their use of AI writing tools by citing AI. However, if researchers do not disclose that their works written by AI writing tools and instead claim such works as their own, then they violate ethical principles and may be punished in accordance with the relevant rules or regulations of University.

By requiring the researchers to find and cite the original source of information that AI utilized in generating content, it will not inhibit researchers from using AI to produce academic work. This is because the use of AI tools have the potential to introduce plagiarized, falsified, and fabricated content<sup>51</sup>, so the researchers should be aware of the risks associated with the use of AI in research since it is responsibility of the researchers to prevent and avoid the research misconducts such as manipulation of data, falsification of non-existent results, or plagiarism of another author's work in proposing, performing, or reviewing research, or in reporting research results.<sup>52</sup>

Third, Active Researcher Involvement: the researchers, who use AI for research, must actively participate in the thinking, design, data collection, analysis, and interpretation processes, and must draft their own final reports or research papers themselves. Researchers should also personally review their research before publication, avoiding reliance on AI for writing any part of the work or copying others' content. Active researcher involvement in all stages of the research process, from initial thinking and design to data collection and analysis as well as writing their own final reports, should be considered as one of the expected effort, skill, and labor of the researcher to avoid plagiarism and copyright infringement when using AI like ChatGPT.

Forth, Training on Ethics and AI Usage: institutions should provide training on ethical standards and proper academic conduct regarding citation and the use of AI in creating works.<sup>53</sup> This training should emphasize the risks associated with the use of AI, such as unintentional

plagiarism, fabrication of nonexistent information, manipulation of information, misuse of personal or confidential information, copyright infringement, or defamation caused by AI.

Fifth, Detection and Verification Methods: there should be initial methods for detecting AI-generated work, which could include evaluating vocabulary, sentence structure, inconsistencies in depth of analysis, or mismatched writing styles.<sup>54</sup> This is because AI presents potential challenges to academic integrity and raises concerns about plagiarism. In order to identify whether a text was written by a human or AI, some scholars suggest the use of various AI content detection tools in distinguishing human and AI-authored content<sup>55</sup> However, they observed that although AI content detection tools are more accurate in identifying content generated by AI, there is the need for further development and refinement of AI content detection tools as AI-generated content becomes more sophisticated and harder to distinguish from human-written text. Also, use of AI content detection tool alone might not be enough since there is a limitation of each tool, so there might be the need to combine several methods to overcome such deficiencies and use them to detect the presence of AI writings in academic works.<sup>56</sup> For example, tools like Turnitin can be employed to check for AI involvement or plagiarism, but another method such as one-on-one interviews with authors must also be conducted to confirm that the work was genuinely self-authored.<sup>57</sup>

### Conclusion

The use of AI in creating works may involve reproduction or adaptation of literary works, which are copyright works of others without authorization, and this constitutes copyright infringement under Section 27 of the CA 1994. However, if AI is used as a tool for creating works for educational or research purposes with proper acknowledgement of the authors and information sources, it may be justified under an exception to copyright infringement in Section 33. Furthermore, the use of AI purely as a tool in creating educational or research works may fall under the exceptions outlined in paragraph two (1) (6) and (7) of Section 32, as these exceptions do not explicitly require acknowledgement of the authors and information sources. Also, these exceptions are inconsistent with the moral rights principle outlined in Section 18, which grants creators the right to be recognized as the author of their work. This right

aligns with ethical and academic integrity standards, emphasizing the importance of acknowledging the true creators of any work, especially in academic and research contexts.

When considering ethical and academic integrity violations under the concept of ‘plagiarism’, it is broader in scope than copyright issues because it evaluates academic honesty and whether the act constitutes cheating. Using AI as a tool to search for information or to answer questions differs significantly from using AI to create academic work. In the latter case, countries like Japan consider it a form of cheating or advanced technological plagiarism. In Thailand, if the information generated by AI does not exist or distorts facts, it is considered a violation of academic ethics and integrity according to the Announcement 2021. However, this law is limited to individuals seeking academic positions and does not extend to using AI to write research papers or textbooks without citing sources. The Terms of Use of ChatGPT state that the users of AI are responsible for content, including ensuring that it does not violate any applicable law. Therefore, if there are inaccuracies, errors, or unauthorized use of copyright work of others, the users must bear full responsibility. Additionally, when lecturers, academics, or researchers instruct AI to gather information and create content, it can be argued that they are not truly creating the work themselves.

If AI is used as a tool for creating new works and the authors apply their own effort, skill, and labor in the creative process, then such work could be eligible for copyright protection and copyright would be owned by the human author. However, this principle is not clearly outlined in the Thai CA 1994. In contrast, French intellectual property Code places significant emphasis on human creators of copyright works, stipulating that the creator who brings forth a work with spirit has exclusive rights over that intangible work. AI systems, on the other hand, lack legal personhood and cannot receive copyright protection because they are not capable of human thought or spirit. AI is merely a tool, not a creator. Therefore, it is essential to distinguish between works created through human effort with AI assistance and those automatically generated by AI, which may not be eligible for copyright protection. This distinction upholds the principle of protecting the intellectual contributions of human creators.

The lesson resulting from the study of Thai copyright law and the problem of AI, is that other countries might learn from Thailand that they should be aware of the

outdated copyright law, which cannot deal with new technologies like AI. The current Thai CA 1994 does not mention about AI, while it struggles to define the roles of humans and AI in creative processes and also struggles to determine who can claim ownership of AI-generated works. Such situation can normally happen to any country where the copyright law has been enacted at a time when new technology like AI was not available or widely accessible for educational purposes.<sup>57</sup> In such case, copyright law needs to be reformed in order to address the specific challenges posed by AI and it is necessary to ensure that the works created solely by AI should not be copyrighted. Further, such reform should not prevent the authors from taking advantage of new technology like AI. It should recognize that AI can be used as a tool to assist a human in the creative process, but the copyrightability of the resulting work depends on the level of human contribution and creativity.

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