**Last name: Pierre Saint**

**First names: Patenska Nahemie**

**Address: #103, Rue Armand-Holly, Port-au-Prince, Haiti**

**Status: Law student**

**Artificial Intelligence and Intellectual Property in the Caribbean: Preserving Cultural Identity through Fair Compensation for Data Creators**

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The delicate balance between protecting creativity and promoting innovation lies at the heart of the convergence between artificial intelligence (AI) and intellectual property rights.

For in a world where technology and culture intersect in surprising ways, the intersection of AI and intellectual property rights in the Caribbean offers fertile ground for fascinating exploration. Caribbean culture is rich in tradition, language, music and art. It is a priceless treasure that has defined the identity of every Caribbean person. At the same time, AI, defined according to ISO 2382-28 as **«**The capability of a functional unit to perform functions that are generally associated with human intelligence such as reasoning and learning[[1]](#footnote-0) », is now an integral part of our lives. With its capacity to learn, adapt and create, AI represents a technological revolution that is transforming the way we live, work and create**.**

This work aims to navigate the murky waters of the intersection of AI and intellectual property rights in the Caribbean, looking to balance the exigencies of technological innovation with respect for and appreciation of the Caribbean's cultural richness. Clearly, AI offers Caribbean culture a new terrain for expression and preservation. On the other hand, it raises unprecedented challenges in terms of intellectual property rights.

This complex dynamic suggests a fundamental question: “How can we ensure fair remuneration for the creators of the corpus of Caribbean data used by artificial intelligences, in order to preserve Caribbean identity and prevent cultural impoverishment?”

This question leads us to a two-part exploration. The first part examines the anarchic use of Caribbean works by AI. It focuses on the challenges and risks associated with the unregulated exploitation of Caribbean cultural works by AI systems. The second part looks at the valorization of intellectual rights in the age of AI. It explores the possibilities and strategies for protecting and promoting the intellectual property rights of Caribbean creators in the context of AI.

**FIRST PART: The impact of the anarchic use of Caribbean works by AI**

While the technological innovation introduced by artificial intelligence offers unprecedented opportunities, it also raises fundamental questions about the preservation of cultural identity and the fair remuneration of Caribbean creators.

In this context, the first part of this work, entitled "The Impact of the Anarchic Use of Caribbean Works by AI," addresses two key themes that demonstrate the vital importance of this intersection. Firstly, it delves into **the cultural and identity value of these Caribbean data corpus (I),** and then it explores **the financial deficit for Caribbean creators (II).**

**I. The cultural and identity value of these Caribbean data sets**

To highlight the cultural and identity value of these Caribbean data sets, we will first examine **the essential role of the data corpus (A)**, followed by a review of **the deterioration of Caribbean culture (B).**

1. The place of data corpus

Artificial intelligence (AI) is an innovation that relies heavily on the use of a set of data, called data corpus, to improve the performance of computer systems. This data can include texts, images, videos, audio recordings and many other types of data.

AI uses machine learning algorithms to extract meaningful information from these data sets. These algorithms analyze and process the data, identifying patterns, trends and hidden relationships. The larger and more varied the data corpus, the more likely it is that the AI will acquire a deep and precise understanding of the domain it is being trained on. Consequently, the AI's performance depends much more on the quality and quantity of the data in its corpus than on its reflections. In short, artificial intelligences are much more knowledgeable than intelligent. Some scientists, such as Yann Le Cun, claim that these technologies are 50 times less intelligent than a four-year-old child.[[2]](#footnote-1)This means that there is no such thing as artificial intelligence without a corpus of data.

Each corpus is constituted by a specific set of data, selected according to particular criteria and objectives. This identity is determined by the source of the data, its field of application, its historical and cultural context, and the methods used to collect and organize it. The Caribbean is a perfect representation of these forms of categorization.

Caribbean music data sets include a multitude of musical genres such as reggae, calypso, zouk, kompa and many others. These musical genres reflect the different cultural influences that have characterized Caribbean music over the centuries. They also reflect the region's social struggles, political demands and collective celebrations. Caribbean music is thus a powerful means of expression that reinforces the Caribbean's cultural identity.

In this way, AIs can exploit this corpus to detect the rhythms, styles and instruments characteristic of Caribbean music. These methods provide a better understanding and appreciation of the richness and diversity of the region's music. Finally, AIs can also use data mining techniques to detect trends or cultural patterns in the Caribbean corpus of data. This makes it possible to generate music based on these rhythms.

In the same way, the Caribbean painting sector is just as important to Caribbean cultural identity. Caribbean data corpuses include a vast variety of artworks that reflect African, European and indigenous influences in the region. Caribbean artists use painting as a means of depicting the natural beauty and unique landscapes of the Caribbean, but also to address subjects such as colonial history, resistance, spirituality and cultural identity. These works of art are a source of inspiration and pride for Caribbean communities, while contributing to the recognition and appreciation of Caribbean culture worldwide.

Caribbean data sets are of inestimable cultural and identity value. These collections of data are essential for reinforcing Caribbean cultural identity and sharing this wealth with the rest of the world. However, the anarchic use of these Caribbean works, by artificial intelligences, constitutes the appearance of numerous pitfalls. Indeed, AIs use Caribbean works to feed their algorithms, although artists are excluded from this process. Technology feeds on their creations[[3]](#footnote-2) while at the same time violating their rights to their works, to the detriment of their culture.

1. The opportunities perspectives

In the first place, one of the biggest issues is that the anarchic use of artificial intelligence risks resulting in a uniform vision of Caribbean culture by non-Caribbean audiences. AIs are programmed to find patterns and categories, and without transmission of artists' know-how and technical skills, this will reduce cultural complexity and depth. For example, Caribbean music is rich in genres, rhythms and varied influences, but the use of AIs could favor the most popular and simplified genres, leaving out the nuances and specificities specific to each Caribbean community.

To illustrate this idea, compas and zouk are two distinct musical genres, although they share certain similarities. However, due to the marginalization of artists, these two musical genres will probably drown in a corpus of data exploited by music-generating AIs. Consequently, there will be confusion for users of these technologies, as it would be more difficult for the AIs to fully grasp the subtleties and unique characteristics of each genre. In addition, the results will not accurately reflect the musical diversity of Caribbean genres.

Secondly, in adopting this anarchistic approach, Caribbean culture risks being restricted. Cognitive computing is essentially developed for data analysis. Since works are dissociated from their authors, updating the corpus of data will be much more complex. Consequently, generating content based exclusively on a corpus of data will reinforce a limited vision of Caribbean culture that does not take account of its evolution. By limiting analysis to available data, we risk excluding emerging cultural expressions and perpetuating stereotypes or fixed representations of Caribbean culture. This constitutes a serious risk to the promotion and preservation of Caribbean culture in all its richness. Not only a menace to cultural richness, but also to economic potential.

**II. The financial deficit for Caribbean creators**

This section focuses on the economic challenges facing Caribbean designers. In order to understand the scope of the issue, we will first analyze the direct financial consequences for creative professionals, i.e. **the losses incurred (A)**, and then explore **the perspectives of opportunities (B)** to mitigate these losses.

1. The incurred losses

The clandestine exploitation of corpus data creates a flagrant financial imbalance. AIs take advantage of the authenticity and creativity of Caribbean artists without offering them fair remuneration. Inadequately, AIs will offer cheaper alternatives to consumers. As a result, according to the principle of the law of supply and demand, it is foreseeable that there will be a drop in demand for artists' original works, which will reduce their sales opportunities and income. As a result, artists may find themselves in a situation where their creations are less valued and less remunerative, resulting in a financial deficit. This limits their ability to develop their careers, invest in new projects and support their artistic community.

Furthermore, this anarchic exploitation weakens the economy of the Caribbean region. Artists and creators are essential to the promotion of cultural tourism and the creative industry, which are important economic drivers for the Caribbean. By not providing artists with their rights, AIs contribute to impoverishing the region and reducing opportunities for sustainable economic development.

There should be no misunderstanding, artificial intelligence and artists are not in opposition. In fact, they represent a unique economic opportunity for collaboration and innovation. However, this cannot be achieved in anarchy or with total disregard for copyright[[4]](#footnote-3).

One of the first financial opportunities is the acquisition and exploitation of data sets. AIs require access to large, high-quality corpora of data to function effectively. By working in collaboration with the creators, this will optimize performance. As a result, it will be less fastidious and costly to collect, clean and label data before it can be used. Collaboration between artists and AI can open up new forms of talent exploitation. For example, artists can collaborate with technology companies to develop customized AI products, such as voice assistants that can sing in the style of a particular artist.

Furthermore, AI is also an opportunity for both artists and their culture. Not least by helping artists reach a wider audience. Thanks to sophisticated algorithms, AI can analyze consumer preferences and behaviors, enabling artists to target their audiences more effectively. This can lead to increased sales of artworks, concert tickets and other art-related products.

The corpus of data is a priceless treasure that preserves and promotes the cultural and historical richness of a region. They make it possible to preserve and promote the cultural richness of the Caribbean, enhancing its distinctive features. The ethical and responsible use of this technology can preserve the creativity and talent of artists regardless of origin, while prospering economically. However, such an objective will be an idyll without the valorization of intellectual rights. However, the question is how to implement such a process.

**SECOND PART: Valuation of intellectual rights in the era of artificial intelligence**

The first part emphasizes the cultural importance of Caribbean data, while the financial deficit of creators highlights the losses incurred and the opportunities to be exploited to preserve these cultural resources.

Based on this observation, the valuation of intellectual property rights in the age of artificial intelligence is of the utmost importance. With the continuing development of artificial intelligence (AI) technology, the legal implications of its use in various areas, including the protection of intellectual property, are becoming increasingly relevant. This raises fundamental questions about authenticity, the human contribution to artistic creation, and the fair valuation of creators' work. It is therefore essential to establish a balance between recognizing the contribution of artificial intelligence and that of the human being, in order to preserve the integrity of the artistic process.

The second part of this paper explores the valuation of intellectual property rights in the age of artificial intelligence. To this end, we will address two key areas. The first will focus on **the protection of creators' intellectual rights (I)**, while the second will explore **mechanisms for remunerating Caribbean creators (II).**

**I- Protection of the intellectual rights of creators**

The study of the protection of creators' intellectual rights constitutes an in-depth exploration of two crucial aspects in the preservation and enhancement of the intellectual rights of Caribbean creators. The first part will emphasize the importance of clearly **establishing copyright ownership (A),** and the second part will focus on **combating the unauthorized appropriation of Caribbean creations through the implementation of user licenses (B).**

1. Establishment of copyright ownership

Article II of the Inter-American Convention on Copyright in Literary, Scientific and Artistic Works declares that copyright comprises for the author of a literary, scientific, or artistic work the exclusive right to: use and authorize the use of his work, in whole or in part; transfer the right in any manner, in whole or in part; and transmit it by will or by operation of intestate laws[[5]](#footnote-4).A work refers to an original creation of the mind. By original creation of the mind, we mean a work that bears the imprint of its author's personality. It's an intellectual creation that's unique to its author, and stands out from the mass of cultural creation. Nevertheless, the originality of a work is not necessarily synonymous with novelty. Originality is best appreciated in terms of the author's personal touch, which makes the work unique and different from others. For this reason, as Isabelle de Maison Rouge points out, copyright is: “... a specificity linked to the status of artist”[[6]](#footnote-5).Indeed, it's the original creation of the artist or author that succeeds in enlivening the senses.

Article VII of the Inter-American Convention on Copyright in Literary, Scientific and Artistic Works reads as follows: “The person whose name or known pseudonym is indicated on a protected work shall be considered as the author of that work, except in case of proof to the contrary. Consequently, the courts of the Contracting States shall admit actions brought against infringers by such author or his successor in interest. As to anonymous, or pseudonymous works whose authors are not known, the publisher of those works shall have the right to bring such action.” This article is taken from the Berne Convention for the Protection of Literary and Artistic Works. As a result, under the above provisions and in the absence of proof to the contrary, anyone whose name or known pseudonym is associated with a work is considered to be the author of said work. This means that the mention of a person's name or pseudonym on a work creates a legal presumption that this person is the author of the work, in the absence of proof to the contrary.

Being considered the author of a work confers specific intellectual property rights, in particular the exclusive right to authorize or prohibit the reproduction, distribution, representation or adaptation of the work. Establishing ownership of a work is therefore fundamental to determining who holds these rights, and who is entitled to exercise them.

Ultimately, taking into account the provisions of the Inter-American Convention on Copyright in Literary, Scientific and Artistic Works, it is undeniable that the recognition and preservation of copyright is of crucial importance in a constantly evolving context. Indeed, there is a pressing need to guarantee protection for creators in the face of the challenges posed by new forms of use and distribution of their works.

1. Combatting unauthorized appropriation of Caribbean creations through the implementation of user licenses.

In the current context of intellectual property rights in the era of artificial intelligence, the protection of original creations is of central importance. In consideration of the principles enunciated in the Inter-American Copyright Convention, which establish the legal presumption of authorship of works, it becomes imperative to consider the challenges associated with the unauthorized appropriation of Caribbean creations. By focusing on the recognition of authorship and the specific rights deriving from it, it is essential to explore protection mechanisms such as user licenses.

Copyright confers moral rights on the author of a work, such as the right to respect for his or her name, the right to respect for the quality of the work, the right to disclose the work; and economic rights such as the right of exploitation, the right of representation and reproduction. Moral rights are imprescriptible, inalienable, perpetual and attached to the person of the author. This is in contrast to economic rights, which are assignable for valuable consideration or without cost.

A license to use a work protected by copyright means authorization to use a work in a particular way. This type of contract provides the right for a third party to use your creation, or more broadly, to use, represent or reproduce your work. It's important to emphasize that a license for use is totally distinct from an assignment. A copyright assignment contract is an agreement whereby one person, called the assignor, undertakes to transfer to another, called the assignee, the intellectual property rights attached to his or her creation. As a result, the assignee becomes the owner of the assignor's work, and can modify, reproduce and represent it as it sees fit. Unlike a license agreement, where the contracting party is not the owner of the work, a license agreement is rather a contract of use. Rather, it's a contract in which the author consents to a third party the use of his or her work, but under certain conditions.

Therefore, beyond the simple legal terms, the implementation of use and exploitation licenses proves to be a strategic approach to protect and enhance the intellectual rights of Caribbean creators in the current context.

In fact, use and exploitation licenses make it possible to control the use of creators' original works. They give the author the right to authorize a third party to use his or her work in a particular way, while preserving his or her moral and economic rights. In other words, a license can be seen as a contract that stipulates the conditions under which a third party may use a work. Let's take the example of rara, a musical style typical of Haiti. Rara is distinguished by the use of traditional instruments such as the lambi shell and the tin rasp, but above all by the vaccines or zinc horns that produce a powerful sound. The musician blows into the vaccines while striking them with small drumsticks. This is a local creation inspired by the wooden flute. With a use and exploitation license, a rara musician could grant a specific license to a technology company to use rara recordings in the development of music-related AI applications. This license could specify conditions of use, such as the length of time the recordings may be used, the type of purpose for which they may be used, and how the artist is to be remunerated. By agreeing to this license, the artist retains control over the use of his or her music, while opening up new opportunities for collaboration and innovation.

An exploitation license, on the other hand, would be particularly relevant in the context of collaboration between Caribbean artists and technology companies. For example, a Caribbean artist could license a technology company to develop a voice assistant that sings in the artist's style. The technology company could then use the artist's voice to create a unique and innovative product, while remunerating the artist for the use of his or her work.

Beyond these examples, the use and exploitation of licenses also presents a major advantage for the preservation of Caribbean cultural identity. By controlling the use of their works, Caribbean artists can ensure that their culture is represented in an authentic and respectful way. They can also ensure that their works are not used in a reductive or stereotypical way, thus preserving the richness and diversity of Caribbean culture.

**II. From rights protection to valuation: Mechanisms for remunerating Caribbean creators**

There are two remuneration initiatives under study to protect and enhance the rights of Caribbean creators. Firstly, **the establishment of a regional copyright office(A)** to strengthen the protection of creators' rights, and secondly, **the creation of a sui generis right to protect artificial intelligence creations (B).**

1. Establishment of a regional copyright office

In general, the mission of a copyright office is to defend, supervise and regulate the interests of creators. It guarantees authors an income from the exploitation of their works. Several countries in the Caribbean region have national copyright offices. However, their effectiveness remains to be seen.

Considering the existence of the Caribbean Community (CARICOM), and taking as a reference the model of the European Union (EU) and the European Copyright Office (Office for Harmonization in the Internal Market), it would be judicious to set up a regional office for the protection of the copyright of Caribbean creators. Its role would be to ensure the protection and enforcement of copyright and related rights. This involves defending the material and moral interests of authors. This institution will have to work to regroup Caribbean authors, but also to work for the professionalization of the various sectors of artistic creation. This institution would be one of the CARICOM institutions.

A dedicated regional office would facilitate cultural exchanges within CARICOM and beyond. By encouraging the circulation of Caribbean works throughout the region, this office would promote artistic cooperation, the dissemination of cultural expressions, and the valorization of local talent. In addition, by establishing partnerships with other international organizations, the CARICOM Copyright Office could enable the region's creators to benefit from opportunities to export their works to world markets.

1. Institution of sui generis rights to protect creations from artificial intelligence

The introduction of a sui generis right to protect artificial intelligence creations will establish a specific legal framework to recognize and protect works produced by artificial intelligence systems. This sui generis right is part of an approach to regularizing artificial intelligence, rather than abolishing it, by recognizing the unique nature of AI creations. Indeed, the sui generis qualification of this singular legal situation prevents it from being classified in an already known category, thus necessitating protection mechanisms adapted to these particular works.

Considering that the distinctive criterion of one work from another is originality, it's important to recognize that AI is capable of creating original works. The decision handed down by the Chinese Shenzhen Nashan Court, which made a work generated by an algorithmic program eligible for copyright protection, underlines this growing recognition of AI creations.

By incorporating such a sui generis right, it becomes possible to define the conditions for protecting creations produced by AI, including recognition of the substantial investments made in developing these works. In addition, this legal framework could also clarify the rights and responsibilities of the various actors involved in the creation process, while addressing issues relating to remuneration, terms of protection and management of rights linked to AI-produced works.

In addition, the implementation of this sui generis right could also enhance and protect Caribbean creators, by enabling AIs, through licenses, to exploit or use their works, thus reducing the risk of creations based on stereotypes. By integrating these considerations into the legal framework, it becomes possible to encourage an environment where artificial intelligence is regularized, creators are protected, and creations are recognized at their rightful value.

In conclusion, this work has explored the complex intersection of artificial intelligence and intellectual property rights in the Caribbean. We sought to answer the crucial question of how to ensure fair remuneration for creators of Caribbean data corpora used by artificial intelligences, in order to preserve Caribbean identity and avoid cultural impoverishment.

We first examined the impact of the anarchic use of Caribbean works by AI, highlighting the challenges and risks associated with the unregulated exploitation of these works. Next, we explored opportunities and strategies for protecting and enhancing the intellectual property rights of Caribbean creators in the age of AI.

This work has demonstrated that balancing the protection of creativity with the promotion of innovation is not only possible, but essential to preserving the cultural richness of the Caribbean. However, much work remains to be effectively accomplished to guarantee an equitable remuneration for the creators of Caribbean data corpuses.

This raises the question of future research directions. How can we develop more effective and equitable remuneration mechanisms for creators of Caribbean data sets? How can we adapt intellectual property rights laws to more effectively respond to the challenges posed by AI? These questions, and many others, deserve further attention and exploration in the future.

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