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(Credit: Courtesy of  
Cristina Busch)

# AI AND CINEMATOGRAPHERS' COPYRIGHT PROTECTION: FOCUSING ON AUTHORSHIP

Behind the lens: AI powers filmmaking innovation, blending human artistry with machine precision, sparking debate on creative ownership

**AI is reshaping audiovisual production, but as AI tools blur the lines of authorship, cinematographers face challenges in protecting their creative rights and recognition.**

**A**rtificial intelligence (AI) is increasingly influencing audiovisual production, from automating tasks to generating entire scenes. Machine learning algorithms can analyse stylistic elements, replicate cinematographic techniques, and even propose new creative solutions. While these advancements can enhance human creativity, they also risk undermining the unique role of cinematographers, who have always worked at the intersection of art and technology. As discussions arise about when and if AI-generated works should be granted copyright protection, with some jurisdictions exploring recognising AI systems as authors, a critical question for cinematographers emerges: if AI is deemed the (co-)author, what happens to the recognition of their artistry and the legal protections that support it?

## CURRENT COPYRIGHT FRAMEWORKS: A PATCHWORK OF PROTECTIONS

The copyright status of cinematographers varies widely across jurisdictions. In countries such as the US and Commonwealth nations, copyright typically vests in the producer under the 'work for hire' doctrine, leaving cinematographers with no rights or even recognition as authors unless explicitly provided for in contracts or industry agreements. By contrast, Estonia and Mexico recognise cinematographers as co-authors directly through legal presumption, while Norway and Belgium presume other creatives as co-authors but recognise cinematographers if their contributions meet standards of originality. Austria, Germany, and Switzerland, lacking specific presumptions, rely on the general 'creator principle,' granting co-authorship based on the originality of contributions.

Elsewhere, protections are inconsistent, often hinging on contractual terms and leaving cinematographers vulnerable to buyouts and the manipulation of their visual design. The rise of AI technologies further complicates these issues, blurring the lines of authorship and potentially undermining their rights.

## INNOVATIVE MODELS FOR PROTECTING CINEMATOGRAPHERS' RIGHTS

To address these challenges, I explore three underexplored approaches for protecting cinematographers' rights. European and international law offer room for discussion of a new framework, as EU directives only require directors to be recognised as authors with legal protection.

### A. CINEMATOGRAPHERS AS RIGHTSHOLDERS OF NEIGHBOURING RIGHTS

One approach to protecting cinematographers is through neighbouring rights, which, while part of copyright law, differ from traditional copyright by granting protection to contributors who are not classified as primary authors (e.g., performers). Unlike full copyright, which grants ownership and recognition to authors, neighbouring rights provide remuneration for the exploitation of a work, such as reproduction, public performance, and distribution, along with moral rights like attribution and integrity.

Despite its potential for international harmonisation through established conventions—something not easily achieved with pure authors' rights or co-authorship frameworks—the neighbouring rights model should be rejected. It relegates cinematographers to secondary contributors, offering not only reduced rights protection but also a shorter term of protection and overall, fails to recognise their role as creators of original artistic works.

### B. COLLECTIVE OWNERSHIP

Another model is collective ownership, where all primary contributors to a film—such as directors, scriptwriters, cinematographers, editors, costume and production designers, stylists, and even performers—share joint ownership of the film's intellectual property. This model reflects the collaborative nature of filmmaking, ensures equitable recognition and compensation for all contributors, and simplifies rights allocation by acknowledging the roles of all key stakeholders. Moral rights could extend to all recognised contributors, not just traditional authors.

Such an idea should be rejected from the outset, first because it violates European law, which mandates that the director be recognised as the author, and second because it risks creating the illusion of protection. In practice, the producer could de facto hold all the rights, making the enforcement of those rights as difficult as it already is for creatives like cinematographers.

### C. SOLE AUTHORSHIP FOR CINEMATOGRAPHERS

Cinematographers could claim recognition as sole authors of cinematography due to their unique role in crafting a film's visual storytelling. While the director shapes the overall vision, it is the cinematographer who defines the film's visual identity through choices in lighting, composition, camera angles, and movement.

Their work goes beyond simply capturing images; they create the aesthetic and mood that guide the viewer's experience. In this sense, cinematographers establish the film's "visual identity," much like photographers are credited as authors of their photographs.

This recognition aligns with the principle that parts of a larger work can receive individual protection under copyright law. Embedded photography, the images within a film, can already enjoy individual protection, as it is accepted that original parts of a work can be separately protected. Some jurisdictions specifically address this, presuming the transfer of rights to the producer for photographic works embedded in the film. Based on this principle, cinematography could also be recognised as separable and protectable.

By asserting sole authorship, cinematographers could secure legal protection for their contributions to a film's visual composition, ensuring both economic and moral rights. This recognition would affirm their status as creators of the film's visual identity and highlight their crucial role in the creative process.

Recognising cinematographers as sole authors may initially conflict with co-authorship frameworks in some countries and EU legislation, which designates directors as principal authors. However, EU law allows flexibility, recognising directors without excluding other creative contributors.

Legal precedents in music and choreography show that complex creative relationships can be fairly regulated. Recognising cinematographers as authors underscores their key role in visual storytelling and ensures human creators are credited and protected as AI-generated content grows.

## CONCLUSION

Cinematographers' artistry is the lifeblood of cinema, shaping its visual language and emotional impact. While neighbouring rights and collective ownership fall short in fully recognising the unique contributions of cinematographers, and co-authorship is often denied by lawmakers or jurisdictions, sole authorship of cinematography provides the strongest framework for ensuring they receive the recognition, rights, and protections they deserve. This approach may also be compatible with, or complementary to, existing national protection of cinematographers as co-authors. ■