

Chinese judgement on copyrightability of AI prompts – Unofficial Translation

Shanghai Huangpu District People's Court

Civil Judgment

(2025) Hu 0101 Min Chu No. 14775

Plaintiff: Chengdu [Name of Company] Cultural Communication Co., Ltd., Domicile: Chengdu City, Sichuan Province

Legal Representative: Wen [Name], Executive Director of the company

Authorized legal representative [REDACTED]

Authorized legal representative [REDACTED]

Defendant: [REDACTED]

Defendant: [REDACTED]

The two aforementioned defendants jointly appointed a legal representative: [REDACTED]

This case concerns a copyright infringement dispute between the plaintiff, Chengdu [Company Name] Culture Communication Co., Ltd., and the defendant, [REDACTED] Information Technology (Shanghai) Co., Ltd. The court accepted the case on May 8, 2025, and proceeded under ordinary procedures, with a collegial panel conducting the trial. Based on the plaintiff's application, the court summoned the defendant [REDACTED] on June 4, 2025. During the proceedings, the plaintiff applied on June 13, 2025, to withdraw its lawsuit against the defendant [REDACTED] Information Technology (Shanghai) Co., Ltd., which the court granted. Evidence was exchanged twice, on May 20 and June 13, 2025, and a public hearing was held on July 25, 2025. The authorized representatives of the plaintiff, Chengdu [Company Name] Culture Communication Co., Ltd., and the defendant, [REDACTED] Information Technology (Shanghai) Co., Ltd., attended the trial. This case has now concluded.

The plaintiff, Chengdu [Company Name] Culture Communication Co., Ltd., filed a lawsuit with this court, requesting the following: 1. That the defendant [REDACTED] cease infringing upon the plaintiff's copyright in the AI-generated painting prompts, meaning that the two defendants shall not, without the plaintiff's permission, use the plaintiff's prompts to generate AI paintings; 2. That the defendant [REDACTED] delete or disconnect the AI paintings currently published on Xiaohongshu or other platforms that were generated using the plaintiff's prompts; 3. That the defendant [REDACTED] jointly and severally bear the reasonable legal expenses incurred by the plaintiff in this case, totaling 9,900 yuan. Facts and

reasons: The plaintiff is a company engaged in the creation of fine art and paintings. In 2022, the plaintiff wrote the prompts in question and used them on the Midjourney platform to generate paintings, which were subsequently published on platforms such as Xiaohongshu. The Midjourney platform used by the plaintiff is a professional painting platform. Its prompt format requires users to list the prompts related to the painting together and submit them to the platform. The platform then uses these prompts to draw and generate the painting. Generally, artificial intelligence platforms only generate paintings, and the prompts cannot be directly extracted from the paintings. However, the Midjourney platform is unique in that it not only publicly displays other users' works but also displays the corresponding prompts (this is for other platform users to learn from). Because of this, the two defendants, [REDACTED], were able to directly access the plaintiff's six sets of prompts by browsing the paintings generated by the plaintiff on the Midjourney platform. They then submitted the plaintiff's prompts to the Midjourney platform again, obtaining similar paintings, and published these newly generated paintings on Xiaohongshu and in publications. The plaintiff accidentally discovered that the paintings published on the defendants' Xiaohongshu accounts were similar to the paintings generated by the plaintiff on the Midjourney platform. The plaintiff then conducted a search on the Midjourney platform and found that the paintings published by the two defendants were generated using the prompts written by the plaintiff on that platform. The plaintiff argues that the prompt words in question constitute a literary work, and that the defendant's actions of using the plaintiff's prompt words to generate and publish artwork on the Midjourney platform infringed upon the plaintiff's rights to reproduction, distribution, information network dissemination, and attribution of the literary work, for the following reasons:

Firstly, the prompt words involved in this case belong to the fields of literature, art, and science, and possess a certain form of expression. Prompt words, especially those used for text-to-image generation, are essentially expressive creative texts, similar in nature to film scripts and stage design plans. A film script provides textual guidance for the overall story structure, shot breakdown, and atmosphere creation during filming, which directors and actors use for their specific performances. Similarly, text-to-image prompts provide the Midjourney platform with "semantic guidance" and "style clues" as a textual basis, which the Midjourney platform then uses to render specific images. Taking prompt word five as an example, it provides the Midjourney platform with the overall structure, main elements, artistic style, materials and details, scientific context, and main composition of the image through textual semantics, arranged in a specific and orderly manner.

Secondly, the prompt words involved in this case constitute intellectual property. In this case, the selection and arrangement of the prompt words demonstrate the plaintiff's intellectual effort and clearly fall within the scope of intellectual property.

Third, the prompts involved in the case go beyond purely functional language and possess characteristics of original expression. 1. The function, usage scenarios, and characteristics of prompts determine that optimal prompts should be composed of words or phrases, and their originality is reflected in the arrangement and combination of phrases in the public domain. (1) The function and essence of prompts. In the working principle of large language models (LLMs), text is first broken down by a tokenizer into the smallest linguistic units—tokens. A token can be a single character or a complete word. Subsequently, these tokens are converted into vectors (embeddings), which are the digital form that the model can understand and process. Vectors are the only recognizable format in neural networks and Transformer architectures. Therefore, from a technical perspective, the processing order that the model easily understands is "vector → token → word → sentence," while the order in which humans easily understand language is the opposite: "sentence → word → smaller linguistic units." Therefore, in actual interaction, words become the most efficient form of communication between humans and the model. To facilitate the model's understanding, prompts are usually primarily composed of words and phrases, and the selection, combination, and arrangement of words and phrases within the prompts (that is, the author's experience, aesthetics, and knowledge) are precisely the expression of the prompt author's originality. (2) The author's original expression in this case. Regarding the expression of creative style. The creative style expression in the prompts focuses on "Art Nouveau" and "by Alphonse Maria Mucha." The plaintiff chose Art Nouveau, a style widely used in building materials, and Alphonse Maria Mucha, who was skilled in drawing figures (mostly beautiful young women) and advertising decorations, as the style for expressing the "plants and animals" theme. ② Regarding the choice of creative theme. The creative theme follows a unique expression method of "gemstone + plant" names, such as "Aquamarines Stygiomedusa gigantea" and "Amethyst gem tree." ③ Regarding the choice of materials and carriers. The plaintiff chose the creative method of "Hand-drawn manuscript," and the medium involved was "Papyrus." Among the common art mediums in the West, the plaintiff chose papyrus as the medium, matching it with fictional plants and the lines and brushstrokes of 19th-century painter Alphonse Mucha, creating a mixed style that is ancient, fantastical, and yet realistic. ④ Regarding the form of the painting, the forms involved include "biological analysis," "A detailed explanation of plants," and

"Encyclopaedia of Plants," which is a style of "natural illustration/natural history illustration." The prompt words chosen by the plaintiff improved upon existing natural history illustrations, constructing a fictional, ancient style of plant notes, thereby creating an original art form. 2. Prompt words, as a means of expression, possess independence and copyright value. The prompt words themselves are the result of human language expression, similar to the conceptual drafts or outlines of literary works. Their independent creative value should not be denied due to the involvement of AI. 3. The determination of originality should focus on the method of expression and personalized choices, not the length or factual content. As long as the content reflects the author's ideas and choices, even the shortest length can express rich content; therefore, the length of the prompt words does not affect the existence of originality. In addition, although the prompt words involve some public domain or factual information, copyright law protects not the facts themselves, but the way in which the facts are expressed.

Fourth, the prompt in this case does not involve limited expression. Although the prompt in question contains words from the public domain, its overall structure constitutes an original expression in natural language, possessing sufficient expressive space and creative freedom. It is not a form necessarily adopted to express a specific idea or function. 1. The prompt is not a set of instructions; its expression does not belong to limited expressions based on specific formats, norms, etc. 2. The prompt is also not computer software code. The essence of the prompt is the broad expression of natural language, unrestricted by programming languages or technical functions. 3. The prompt in question is a creative prompt, not a search-based prompt. It reflects the plaintiff's clear intention and creative choices in generating original content, belonging to the category of natural language text with a high degree of expression, rather than being limited to existing facts or commonly known expressions.

As stated by [REDACTED], I. The prompt words involved in the case, as claimed by the plaintiff, do not constitute works protected by copyright law. (I) Prompt words are not works, the act of writing prompt words is not a creative act, and the act of entering prompt words is not an act of publication. 1. The prompt words written by the plaintiff do not constitute literary works. The reasons are as follows: First, literary works are expressed in written form, and their core lies in conveying the author's thoughts or artistic beauty through a system of written symbols. From the perspective of the standards for literary works, the phrases involved in this case are professional terms or proper nouns in the public domain, lacking personalized expression. The order of the prompt words does not have specific meaning, and they do not constitute independent scripts or short articles with basic aesthetic significance, and therefore

cannot be monopolized by the plaintiff. Second, language, as a carrier of thought transmission, can serve as both a concrete expression and a tangible manifestation of thought. On the one hand, in traditional creative processes, such as painting and photography, people complete the transformation from thought to expression at the moment their creative purpose is achieved. However, AI tools divide the creative process into two stages; prompt words are only one part of the creative process, not the creative result. On the other hand, people use concrete expressions as carriers to transmit thoughts and communicate through creation, but writing prompt words is merely a human-computer interaction used to instruct AI to complete a painting. This behavior does not have social attributes and cannot serve the purpose of communication and interaction between people. Moreover, the key to constituting a creative act is the qualitative change from thought to expression, and writing prompt words is not a creative act. An increase in the quantity of non-creative activities cannot qualitatively transform the result into something original. As for the selection of words in the prompt words, it is essentially a process of selection, arrangement, and combination. This selection belongs to the ability of appreciation, not creative ability, and the act of selection is not a creative act. Furthermore, entering prompt words is not an act of publication. For example, searching for a question on Baidu, entering search keywords is only to obtain search results. 2. If the court determines that the phrases involved constitute literary works, then the plaintiff can only claim copyright for the phrases as literary works, and not as prompt words. This is because copyright law protects specific types of works such as literary works, while prompt words are only a form of expression or method of use of the work. (II) Prompt words are considered ideas and are not protected by copyright law. According to the idea-expression dichotomy, prompt words are the concretization of an idea, not a specific expression. In the process of AI image generation, the role of prompt words is to instruct the AI to generate content according to the user's ideas. The U.S. Copyright Office also believes that prompt words are essentially instructions that convey ideas not protected by copyright, and therefore are not protected by copyright law.

II. The plaintiff is not the copyright holder and lacks standing to sue. The plaintiff's statements and evidence are insufficient to prove that they own the copyright to the content in the Midjourney platform account in question. The reasons are as follows: 1. The statement does not prove the unique binding relationship between the email address and the account in question. 2. Owning the email address associated with the account in question does not mean owning the copyright to the content on the Midjourney platform account. On the one hand, if the plaintiff claims copyright to the prompt words in question, they need to provide the

employment contract or commissioned work contract of the employee who wrote the prompt words at that time, proving that the work was created under the direction of the legal entity, representing the will of the legal entity, and that the copyright of the resulting work belongs to the legal entity, with the legal entity bearing legal responsibility; on the other hand, the account and email address on the platform in question have not undergone real-name authentication in accordance with Chinese information network platform regulations and should not be protected by Chinese law.

III. The alleged actions do not constitute copyright infringement. (I) The alleged infringing acts were not committed by the defendants. 1. The plaintiff's claimed rights are based on prompt words, but the defendants' works or Xiaohongshu accounts do not contain the prompt words claimed by the plaintiff; there is no act of publishing, reproducing, or adapting the prompt words. 2. The plaintiff has no evidence to prove that the accused Midjourney platform account UN [REDACTED] belongs to either of the defendants; in fact, this account does not belong to either of the defendants. (II) Public domain defense. According to the Midjourney platform's terms of service, users waive their rights related to prompt words, and this content defaults to the public domain. According to the "Guidelines for the Trial of Copyright Infringement Cases by the Beijing High People's Court," if the identical or similar parts of the alleged infringing work and the plaintiff's work originate from the public domain, the defendant can claim a legitimate source defense from the public domain. (III) Limited expression defense. The prompt words in question are merely a combination of a few words, belonging to limited expression. Furthermore, when comparing for copyright infringement, it is necessary to abstract the ideas and filter out limited expressions and public domain content. After filtering, the prompt words in this case have no other comparable elements. (IV) Fair use defense. If neither the public domain defense nor the limited expression defense is supported, the two defendants argue that the alleged actions were personal learning activities by the owner of the Midjourney platform account UN [REDACTED], involving sketching and learning from prompt words in the open community, which falls within the scope of fair use as stipulated by copyright law.

IV. Other matters. (I) The plaintiff failed to prove that it holds rights to the prompt words in question, and the prompt words do not constitute a work and belong to the public domain. The plaintiff also failed to provide evidence that the two defendants published AI-generated artwork using the prompt words in question and the corresponding prompt words on Xiaohongshu or other platforms. Therefore, the request in claim two, which asks the two defendants to delete the AI artwork, is unreasonable. (II) The plaintiff's claim of 9,900 yuan for evidence collection

fees lacks reasonableness and evidentiary support. The invoice cannot be proven to be related to the notarization in this case, and the actions of the two defendants do not constitute infringement; therefore, they should not bear liability for compensation.

In summary, the two defendants request that the court dismiss all of the plaintiff's claims.

The parties submitted evidence in accordance with the law to support their claims. This court organized an exchange and examination of evidence between the parties. Based on the statements of the parties and the evidence reviewed and confirmed, this court finds the following facts:

I. The content of the prompt words involved in the case as claimed by the plaintiff

On October 14, 2022, the plaintiff's representative, Mr. Sun, under the supervision of He Lechong Law Firm and in the presence of Chinese commissioned notary Mr. Cen and a lawyer, performed the following notarized preservation operations on a computer connected to the internet at the law firm:

1. Open the Google Chrome browser, clear the cache, and delete your browsing history.
2. Enter <https://www.midjourney.com> in the browser's address bar to go to the Midjourney official website.
3. Click the Sign In button to go to the login page.
4. Enter your username and password.
5. Click Log In.
6. Click the authorization button to enter your personal homepage. The username of the operator is displayed as qazmlpwert.
7. Click the "Manage Sub" button on the left side of the list. You will see "Manage Subscription" (Chinese translation: 管理订阅) which displays: Basic Membership + Private Access, Monthly fee: \$30 USD, WHAT'S INCLUDED: Limited use (-200 images/month), General commercial terms**, Incremental billing after limits (optional), Access to member gallery (Chinese translation: 基础会员+私人渠道, 月服务费: 30美元, 服务内容: 限制应(200张图/月)、普通商业条款、限制后的增量计费(可选择)、进入会员展示的权利); Standard Membership + Private Access, Monthly fee: \$50 USD, WHAT'S INCLUDED:

Unlimited personal use*, General commercial terms**, Access to member gallery (Chinese translation: 标准会员+私人渠道, 月服务费: 50美元, 服务内容: 没有限制的私人应用、普通商业条款、进入会员展示的权利).

FAQ (Chinese translation: 常见问题) What is the member gallery? The gallery is the place where paid members can explore images being made on the platform as well as visual dictionaries of words and styles. The gallery also acts as a central place to organize your own images, collect favorites, and more. (Chinese translation: 什么是会员展示?会员展示是让付费会员发现在平台上制造的图片以及视觉词汇词典的词汇和风格。会员展示同时会作为组织自己图片和收藏夹的核心场所。)

How does commercial use work?***You're pretty free to use the images in just about any way you want as long as this special-case restriction does not apply to you. If you're using the images as an employee of a company that makes more than 1M/yr USD in revenue you need to purchase a 'Corporate' plan. For complete details, please see our terms of service. (Chinese translation: 商业用途是怎么运作的?你可以非常自由地以自己想要的任何方式使用这些照片,只要不存在以下的特殊限制情况: 如果你是一家年收入超过100万美元的公司的员工,你需要购买 公司计划。完整细节详见服务条款。)

8. Click the Help & FAQ button in the left-hand list to view the Quick Start Guide. (Chinese translation: 速开始指南) Midjourney is an independent research lab exploring new mediums of thought and expanding the imaginative powers of the human species. There are two ways to experience the tools: the Midjourney Bot, which you can use to generate images, and the web app at <https://www.midjourney.com/>, where you can find a gallery of your own work and other users' creations. You can use our Midjourney Bot on our official Discord server (<https://discord.gg/midjourney>) as well as on any other Discord server where it has been set up. If you wish to invite the bot to your own community, follow the instructions on this page: Use Midjourney on your own Discord Server. (Chinese translation: Midjourney 是一个独立的试验室,正在探索思考和扩大人类的图片能量的新方式。有两种体验这个工具的方式: Midjourney Bot,在这里面你可以用它来生成图片,网址是<https://www.midjourney.com/>,在

这个网站中你可以找到你 **自己的作品的展示栏**和其他人的创作。你可以在我们的官方 Discord服务器([https://discord. gg/midjourney](https://discord.gg/midjourney))上使用我们的 Midjourney 机器人,同时也可以在其他已设置该机器人的 Discord 服务器上使用。如果你希望邀请 bot 进入你自己的社区, 请根据如下页面中的指示进行操作:**在你的 Discord 服务器中使用midjourney.)**

9. Return to your personal profile page.

10. Click the "About & Careers" button in the left-hand list to see: ABOUT: Midjourney is an independent research lab exploring new mediums of thought and expanding the imaginative powers of the human species. (Chinese translation: **关于: Midjourney 是一个 独立的研究实验室,探索新的思维媒介,拓展人类的想象力。**)

11. Click the "Terms of Service" link at the bottom of the page to view the Terms of Service (Chinese translation: **服务条款**), Version Effective Date: August 28, 2022 (Chinese translation: **版本生效日期: 2022年8月28日**), Rights you give to Midjourney: By using the Services, you grant to Midjourney, its successors, and assigns perpetual, worldwide, non-exclusive, sublicensable no-charge, royalty-free, irrevocable copyright reproduce, prepare display, publicly license a Derivative Works of, publicly perform, sublicense, and distribute text, and image prompts you input into the Services, or Assets produced by the service at your direction. This license survives termination of this Agreement by any party, for any reason. (Chinese translation: **您给予Midjourney 的权利:通过使用服务, 您将授予Midjourney 及其继任者永久、全球范围内的、非排他性 的、再分许可的、免费的、免版税的、不可撤销的版权许可,以 复制、制作、公开展示、公开表演、再许可和分发您输入服务中 的文本和图像提示或根据您的指示由服务生成的资产的衍生作 品。无论由任何原因任何一方终止本协议,该许可协议仍然有效。**)

Your Rights: Subject to the above license, you own all Assets you create with the Services. This does not apply if you fall under the exceptions below. Please note: Midjourney is an open community which allows others to use and remix your images and prompts whenever they are posted in a public setting. By default, your images are publicly viewable and remixable. As described above, you grant Midjourney a license to allow this. If you purchase a private plan,

you may by pass some of these public sharing defaults. (Chinese translation: 您的权利:根据上述许可,您拥有使用服务创建的所有资产。如果您符合以下例外情况,则不适用。请注意: Midjourney 是一个开放的社区,允许其他人在公共场合使用和重新组合您发布的图像和提示。默认情况下,您的图像可以公开查看和重新混合。如上所述,您授予 Midjourney 许可允许这样做。如果您购买了私人计划,您可以绕过这些公共共享默认设置。)

12. Return to your profile page.

13. Click the "Community Feed" button in the left-hand list.

14-38. Enter the following six sets of keywords into the search bar at the top, click search, and view the results.

(1) Art Nouveau style illustration of Aquamarines Stygiomedusa gigantea, by Alphonse Maria Mucha. Ancient hand-painted manuscripts, Papyrus, Complex and delicate jellyfish texture, Gorgeous gold inlaid wooden picture frame, Mirror symmetry.

(2) Art Nouveau style illustration of Turquoise Butterfly, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, Complex and delicate butterfly texture, Biological notes, Central composition, Mirror symmetry.

(3) Art Nouveau style illustration of lapis lazuli Butterfly, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, Complex and delicate butterfly texture, Biological notes, Mirror symmetry.

(4) Art Nouveau style illustration of Amethyst gem tree, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, Notes for organisms, Encyclopedia of plants, interpretative statement, Central composition, Mirror symmetry.

(5) Art Nouveau style illustration of the emerald ganoderma scene, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, biological analysis, A detailed explanation of plants, Encyclopedia of Plants, Intricate, elaborate, Rich and detail texture, Center of the composition.

(6) Art Nouveau style illustration of Brocade carp in Black Opal, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, biological analysis, Detailed description of biological signs, Encyclopedia of Marine life, Fine black koi texture details, Center of the composition.

Sun issued a statement regarding the process of downloading online materials, which was notarized by Chinese commissioned notary Cen and a lawyer. On October 19, 2022, China Legal Services (Hong Kong) Limited affixed to the notarized document a special seal for the

transmission of notarized documents for use in mainland China, commissioned by the Ministry of Justice of the People's Republic of China (Shenzhen Office No. 45290). Steps 14-38 of the above process are summarized and illustrated in the following diagrams.

On June 25, 2025, the plaintiff and its legal representative, Mr. Wen, jointly issued a "Midjourney Account Status Statement," which stated: "Our company has long been engaged in content creation in the fields of art creation, cultural dissemination, and new media. For work purposes, our legal representative, Mr. Wen, registered a Midjourney platform account BY [REDACTED] on behalf of the company. This account is for internal company use only, to generate AI-generated artwork content required for business purposes, and is not used for any other purpose. BY [REDACTED] is the acronym of the pinyin initials of 'Banye Shancha,' the art IP operated by our company at the time. The login account and password are publicly available within the company, and other colleagues can also log in and use it when they need AI-generated artwork. The content produced by this account should be considered as authored by the company. Due to the characteristics of the Midjourney platform, there is no real-name authentication, but this account is currently bound to a personal email address [REDACTED] controlled by Mr. Wen."

During the trial, the plaintiff's legal representative demonstrated the process of generating images using the disputed prompts, taking one of the disputed prompts as an example:

The plaintiff's legal representative logged into the Midjourney platform account BY [REDACTED], and the chat history showed that at 9:00 PM on August 3, 2022, the following prompt was entered into the Discord input box: "Art Nouveau style illustration of Aquamarines Stygiomedusa gigantea, by Alphonse Maria Mucha, Ancient hand-painted manuscripts, Papyrus, Complex and delicate jellyfish texture, Gorgeous gold inlaid wooden picture frame, Mirror symmetry", The system returns a set of four images in a grid. Clicking the "U4" button below the image (to enlarge the fourth image) generates the corresponding jellyfish image (the left image in the attached image, generated from the prompt in the case).

II. The alleged infringing acts as claimed by the plaintiff

1. On August 31, 2022, the plaintiff's authorized legal representative preserved evidence through the United Trust Timestamp Service Center (Certificate Number: TSA-04-20220831428054438). According to the trusted timestamp authentication certificate and screenshots, a user named "[REDACTED]" on the Xiaohongshu platform (Xiaohongshu ID [REDACTED], 87,000 followers, 48 posts) edited a post titled "[REDACTED]" on August 17, 2022, using the image shown below (hereinafter referred to as the disputed image one).

August 18, 2022 Editor's Note [REDACTED] 》, using the following image (hereinafter referred to as "Image 2 in question").

August 20, 2022 Editor's Note [REDACTED] 》, using the following image (hereinafter referred to as "Image 3 in question").

Below each of the three aforementioned notes, it is stated: "Copyright notice: For commercial use, please contact for authorization. For derivative works and reposts, please indicate the source," and there are tags "#Illustration #IllustrationSharing #Midjourney".

2. On August 31, 2022, the plaintiff's authorized legal representative preserved evidence through the United Trust Timestamp Service Center (Certificate Number: TSA-04-20220831427242392). According to the trusted timestamp authentication certificate and screenshots, the Douyin platform user "[REDACTED]" (Douyin ID: [REDACTED], with [REDACTED] million followers) published "[REDACTED] Biological Illustration [REDACTED]" on August 17, 2022, and used the three images in question.

3. The book "[REDACTED] Illustrated Guide" was first published by Posts & Telecom Press in October 2023. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Page 22 of the book uses the following image (hereinafter referred to as Image Four).

III. Others

On November 3, 2022, Beijing Dingyou Law Firm, a third party not involved in the case, issued an invoice to the plaintiff for 9,900 yuan, with the item description "Legal Consulting Service Fee" and the remark "Evidence collection, notarization number SHW/CA/22100682".

On March 7, 2025, Xing[REDACTED] Information Technology (Shanghai) Co., Ltd. issued a "User Information Disclosure," stating that "Xiaohongshu username [REDACTED]"

After the hearing, the plaintiff provided a screen recording of the legal representative, Mr. Wen, logging into the email address [REDACTED] using a password, along with a written

statement from the plaintiff, to prove that Mr. Wen was the email account owner, and that the company and the employee had an agreement that the "BY [REDACTED]" account belonged to the plaintiff, and the generated prompts also belonged to the plaintiff; the defendant provided account screenshots and a written statement to prove that the account [REDACTED] on the Midjourney platform was say*****611, and that [REDACTED] did not have a dedicated Midjourney platform account, and mainly used Midjourney by borrowing other people's Midjourney accounts and renting short-term shared accounts on online platforms.

The above facts are supported by evidence provided by the plaintiff, including the "Statement Regarding Downloaded Online Materials," "Midjourney Account Status Statement," trusted timestamp certificates and videos, "[REDACTED] Art Catalog," screen recordings of the demonstration process, invoices, etc., as well as statements from the parties involved, evidence exchange records, and trial transcripts.

The Court believes that the plaintiff and its legal representative, Mr. Wen, have stated in writing that the Midjourney platform account "BY [REDACTED]" was registered by Mr. Wen on behalf of the plaintiff to complete the company's creative activities and is an internal creative tool used by the company. This account is publicly accessible within the company, aiming to gather team creativity and integrate creative ideas, reflecting the plaintiff's creative intent. Although the account is linked to Mr. Wen's personal email address, this is merely a technical requirement for platform registration. The use and output of this account serve the plaintiff's business needs, and Mr. Wen has confirmed this.

The plaintiff's authorized legal representative logged into the Midjourney platform using the account "BY [REDACTED]" in court and fully demonstrated the process of entering the disputed prompt words, submitting the generation command, and ultimately generating the images. The process demonstrated in court was consistent with the disputed prompt words and image content alleged by the plaintiff. The plaintiff used the disputed prompt words to generate the images based on their creative intent and with the assistance of creative tools, and therefore bears the relevant legal responsibility. Thus, in the absence of contrary evidence, the plaintiff is a qualified party to the lawsuit.

Based on the arguments of the plaintiff and the defendant, and the facts ascertained, the main points of contention in this case are: 1. Whether the prompt words involved constitute a literary work; 2. Whether the alleged actions constitute infringement. This court will evaluate these points of contention separately.

I. Do the keywords involved in the case constitute a work?

Under my country's Copyright Law, a "work" refers to intellectual achievements in the fields of literature, art, and science that are original and capable of being reproduced in some tangible form. The core element is "original expression." Therefore, to determine whether a prompt constitutes a "work" under copyright law, two aspects should be considered: first, whether the prompt is original, and second, whether the prompt constitutes an "idea" or an "expression."

1. The keywords involved in the case lack originality.

Originality, as the primary condition for a work to be protected by copyright law, includes two aspects: firstly, it originates from the author's independent creation, and secondly, it reflects the author's individual choices and creative expression.

In traditional creative work, originality requires that the author's intellectual input in terms of choices, arrangements, and design reaches a level that reflects individuality. From this perspective, when evaluating the originality of prompts in AI-assisted creation, the focus should be on whether the user demonstrates substantial intellectual creativity in the design and adjustment of the prompts, and whether this reflects personalized expression. Generally, the more specific and detailed the prompt, the more fully it reflects personalized choices and aesthetic preferences, and thus the more likely it is to meet the requirements of originality. However, originality does not depend on the length or complexity of the prompt, but rather on whether it reflects the result of creative expression. It is worth emphasizing that human input must be "creative, not merely laborious." Even if a significant amount of time is spent repeatedly modifying prompts, if it only involves rearranging generic prompts or simply combining common stylistic words, it is usually difficult to consider it as original expression. Conversely, if the prompt is the result of purposeful conceptualization and semantic design, and can present a unique aesthetic orientation or creative expression, it can be considered as creative intellectual input.

The Midjourney platform involved in this case is an image generation tool based on generative artificial intelligence. It utilizes deep learning algorithms such as diffusion models, learning from large-scale image-text paired data to achieve automatic conversion from language prompts to image generation. In the Midjourney model, the prompt structure is divided into image prompts, text prompts, and suffix parameters, resulting in three scenarios: text prompts, text prompts + suffix parameters, and image prompts + text prompts + suffix parameters. Text prompts are usually the main controlling element affecting the generated results. Text prompts

can be a single word, or a complete phrase or sentence. The more specific and semantically clear the user's prompt is, the more defined the theme and style of the generated image will be. Short or vague prompts will cause the Midjourney platform to automatically fill in details using its default style. Due to the specific nature of the model in this case, the prompts are limited to words or phrases.

The six sets of prompts involved in the case adopted the basic structure of artistic style, main elements, materials and details, scientific context, and main composition. Among them, the artistic style included "Art Nouveau style" and "by Alphonse Maria Mucha," the main elements included "Aquamarines Stygiomedusa gigantea" (Giant Aquamarine Stygian Jellyfish), "Turquoise Butterfly," "Lapislazuli Butterfly," "Amethyst gem tree," "the emerald ganoderma scene," and "Brocade carp in Black Opal," the material was "Papyrus," the details included "Ancient hand-painted manuscripts," "Intricate," "elaborate," "Rich and detailed texture," and "Gorgeous gold inlaid wooden picture frame," the scientific context included "Biological notes," "Notes for organisms," "Encyclopedia of plants," "interpretative statement," "biophysical analysis," and "A detailed explanation of plants," and the main composition included "Mirror symmetry" and "Central composition."

Based on the criteria for determining copyrightable works, the six sets of prompts in question are essentially instructions or descriptions entered by the user into the AI system to guide the AI in generating specific images. Formally, although they contain various elements, these elements are simply listed without grammatical or logical connections, failing to form a language expression with an inherent structure; the keyword groups are in a disordered combination, lacking both structural progression and a narrative sequence. For example, phrases like "Ancient hand-painted manuscripts" and "Complex and delicate jellyfish texture," while each containing certain semantic information, still lack logical coherence when combined. From the perspective of originality of expression, these prompts lack the author's personalized characteristics; the artistic styles, material details, or main compositions used are all conventional expressions in the field, failing to reflect the author's unique aesthetic perspective or artistic judgment. The plaintiff argues that their use of a new artistic style applicable to building materials and the style of a painter skilled in drawing figures as the expression style for "animals and plants" themes, as well as the naming method of "gemstones + animals and plants" for the creative theme, demonstrates their originality. In fact, in the field of traditional painting, it is not uncommon for artists to transfer familiar styles to different subjects, and combining gemstones with animals and plants based on visual (color, form) or

cultural symbolic associations is also a common creative technique, making it difficult to constitute original expression. Furthermore, although the law does not set a word count threshold for literary works, a work still needs to possess completeness of expression to meet the requirements of originality and a certain depth of expression. The prompts in question, such as "Hand drawn manuscript" and "Biological notes," are merely combinations of a few phrases, lacking a complete linguistic structure and depth of expression, and cannot fully express complete content through sufficient text like formal works. At the same time, these phrases only simply inform the AI of the image style and scene, without providing a deeper interpretation or assigning special meaning to the style and scene, nor do they demonstrate the necessary artistic beauty. In summary, although the prompt in question contains some descriptive content, its expression is insufficient to demonstrate creative intellectual input, and therefore it should not be considered an original literary work.

2. The prompts involved in the case belong to "ideas" rather than "expressions." Ideas are abstract and not protected by law, such as thoughts, concepts, theories, designs, creative ideas, etc., while expressions are concrete and can be protected by law. That is, the law only protects the expression of a work, not the idea itself. In the context of AI-generated content, prompts serve as both a medium for users to convey their creative intentions to the AI system and a bridge connecting human thought with AI output. In most cases, the function of prompts is to convey creative requirements, such as "write an article about snow" or "create a painting of snow." These types of prompts are instructions regarding the creative theme and style, and are usually considered to fall under the category of "ideas." However, if a user writes text with literary originality, such as "Suddenly, like a spring breeze overnight, thousands of pear trees blossomed," and asks the AI to further create based on this, because this prompt goes beyond pure functional instructions and reflects unique language choices and artistic expression, in this case, the prompt may be considered a protected work with expressive attributes.

In this case, the core of the prompts in question is a list and description of visual elements, artistic style, and presentation form. This content is more akin to abstract creative ideas, specifically the idea of "what kind of painting I want the AI to generate." This idea, by its nature, belongs to the realm of thought. Only the specific ways in which lines and colors are used to depict the form, details, and stylistic characteristics of the "Turquoise Butterfly," or the emotional atmosphere the painting conveys, could constitute "expression." The prompts in question, remaining at the level of abstract creative ideas rather than concrete expression, should not be considered works protected by copyright law.

The purpose of copyright law is to encourage creativity, thereby promoting the development of culture and science. If short instructions, keyword combinations, and similar types of prompts are recognized as works and protected by copyright law, it could lead to two potential risks. On the one hand, the free use of language will be restricted, potentially leading to the excessive privatization of linguistic resources. Once similar prompts are recognized as protected works, others using the same or similar word combinations to guide AI content generation may face the risk of infringement, and creativity will be suppressed. On the other hand, the AI innovation ecosystem will be constrained. Prompts are important guiding factors for AI-generated content; rich and diverse prompts can stimulate AI's creativity and promote AI exploration in a wider range of fields. If excessive rights boundaries are placed on the use of prompts, the instructions and data available to AI will be drastically reduced, hindering technological innovation and the development of multi-field applications.

In summary, based on a systematic interpretation of the boundaries of copyright law and a consideration of the balance of public interest, the prompt in question reflects a certain creative intent, but it does not demonstrate the author's individualized intellectual contribution at the level of expression. Therefore, it should not be considered an original work.

II. Does the alleged conduct constitute infringement?

The plaintiff alleges that the defendant, by using the plaintiff's proprietary prompts to generate AI-generated artwork without authorization, infringed upon the plaintiff's rights of reproduction, distribution, information network dissemination, and attribution. This court analyzes the relevant issues as follows:

First, the plaintiff lacks a basis for asserting their rights. As mentioned earlier, the six sets of prompts in question do not constitute a work protected by copyright. Therefore, the plaintiff does not hold copyright over the prompts and naturally has no right to claim copyright infringement.

Secondly, even if the prompt words in question are protected by copyright law, the plaintiff failed to prove that the two defendants used the prompt words. The evidence in the case proves two facts: first, someone used the prompt words to generate the images in question on the Midjourney platform through the UN [REDACTED] account; second, the two defendants used the images in question on Xiaohongshu and in books. Based on this, the plaintiff presumed that the two defendants were the users of the prompt words. The two defendants refuted this by: first, showing the court their own accounts on the Midjourney platform and the rented accounts,

neither of which was the UN [REDACTED] account; second, the images in question were publicly available on the Midjourney platform, and any user could view, use, and obtain them, and their access to the images came from the public internet. Therefore, without further evidence from the plaintiff, this court believes that attributing the use of the UN [REDACTED] account to the two defendants lacks sufficient factual basis.

In accordance with Article 3 of the Copyright Law of the People's Republic of China and Article 67, Paragraph 1 of the Civil Procedure Law of the People's Republic of China, the judgment is as follows:

The plaintiff, Chengdu [Company Name] Cultural Communication Co., Ltd.,'s entire claims are dismissed.

The case acceptance fee of 50 yuan shall be borne by the plaintiff, Chengdu [Company Name] Cultural Communication Co., Ltd. If dissatisfied with this judgment, an appeal may be filed with this court within fifteen days from the date of service of the judgment, and copies of the appeal statement shall be submitted according to the number of opposing parties, to the Shanghai Intellectual Property Court.

(This page contains no text.)

Presiding Judge: Li Lu

Judge: Hu Guyue

People's Juror: Zhu Yun

November 6, 2025

This document has been verified against the original and found to be identical.

Court Clerk: Wu Hao

上海市黄浦区人民法院

民事判决书

(2025)沪0101民初14775号

原告：成都某某文化传播有限公司，住所地四川省成都市

法定代表人：温某，该公司执行董事

。委托诉讼代理人

委托诉讼代理人

被告：

被告

上述二被告共同委托诉讼代理人

原告成都某某文化传播有限公司与被告 吟信息科技（上海）有限公司著作权侵权纠纷一案，本院于2025年5月8

日立案后，依法适用普通程序，由合议庭进行审理。根据原告申请，本院于2025年6月4日追加[]为被告。审理中，原告于2025年6月13日申请撤回对被告[]吟信息科技（上海）有限公司的起诉，本院已裁定予以准许。本案分别于2025年5月20日和6月13日进行两次证据交换，于7月25日公开开庭进行了审理。原告成都绘素文化传播有限公司的委托诉讼代理人[]，被告[]委托诉讼代理人[]到庭参加诉讼。本案现已审理终结。

原告成都某某文化传播有限公司向本院提出诉讼请求：1.判令被告[] 止侵害原告创作的人工智能作画提示词的著作权，即二被告此后不得在未经原告许可的情况下擅自使用原告创作的涉案提示词生成AI画作；2.判令被 []删除或断开目前在小红书或其他平台已发表的使用原告创作的涉案提示词生成的AI画作连接；3.判令被 []连带承担原告为本案支出的维权合理开支共计9,900元。事实和理由：原告是经营美术作品、绘画艺术创作的公司，于2022年撰写涉案提示词，并使用涉案提示词在Midjourney平台上生成绘画作品，随后在小红书等平台发表。原告使用的Midjourney平台是一个专业绘画平台，其要求的提示词格式是，使用者将和画作有关的提示词并列罗列好，统一提供给该平台，该平台根据这些提示词进行绘制并生成画作。一般而言，人工智能平台生成的只有画作，而提示词不能从画作中直接读取到。但Midjourney平台的特殊性在于，该

平台不仅公开展示其他使用者的作品，还会一并附带展示该作品所对应的提示词（此举是为了供平台其他使用者学习）。正因如此，被 [REDACTED] 二人得以通过浏览原告在 Midjourney 平台上生成的画作，直接读取到原告的六组提示词，然后将原告撰写的提示词再次提交给 Midjourney 平台，得到近似的画作，并将再次生成的画作发表在小红书和出版物中。原告偶然发现二被告小红书账号发表的画作与其在 Midjourney 平台上生成的画作近似，遂在 Midjourney 平台上进行了搜索，发现二被告发表的画作系使用原告撰写的提示词在该平台生成。原告认为，涉案提示词构成文字作品，被告利用原告撰写的提示词在 Midjourney 平台上生成画作并发布该画作的行为，侵犯了原告享有的文字作品的复制权、发行权、信息网络传播权和署名权，理由如下：

第一，涉案提示词属于文学、艺术和科学领域，且具有一定的表达形式。提示词，特别是文生图类的提示词，本质为具有表达性的创作文本，其属性与镜头脚本、舞美设计方案等类似。镜头脚本是为拍摄时提供整体故事结构、分镜设置和氛围营造的文本指导，导演和演员依此进行具体表现，而文生图提示词也是为 Midjourney 平台提供“语义指导”和“风格线索”的文本基础，Midjourney 平台依此进行具体图像的渲染。以涉案提示词五为例，通过文字语义为 Midjourney 平台提供整体结构、主体元素、艺术风格、材质与细节、科学语境、画幅的主要构图，并进行具体而有序的安排。

第二，涉案提示词属于智力成果。本案中，对涉案提示词的选择与编排体现了原告智力投入，显然落入智力成果范畴。

第三，涉案提示词超越工具性语言，具备独创性表达特征。1. 提示词的作用、使用场景与特点决定了优选提示词应以单词或短语方式组成，其独创性表达体现在公有领域词组的排列与组合方式。(1)提示词的作用与本质。在大语言模型（LLM）的工作原理中，文本首先由分词器（tokenizer）拆分成一个个最小的语言单位——token。Token 可以是单个字符，也可以是完整单词。随后，这些 token 被转换成向量（embedding），这是模型能够理解和处理的数字形式。向量是神经网络和 Transformer 架构中唯一可识别的格式。所以从技术层面看，模型便于理解的处理顺序是“向量→token→单词→句子”，而人类便于理解语言的顺序恰好相反，是“句子→单词→更小的语言单位”。所以，在实际交互中，单词成为人与模型之间沟通的最高效形式。提示词为了便于模型理解，通常优先由单词和短语构成，而提示词之中单词、短语的选择、组合与排布方式（也就是背后所蕴含的作者的体验、审美、知识等）正是提示词作者的独创性的表达。(2)本案中作者的独创性表达。①关于创作风格表达。提示词中的创作风格表达集中在“Art Nouveau”（新艺术风格）和“by Alphonse Maria Mucha”（阿尔丰斯·穆夏），原告选择了广泛用于建筑材料的新艺术风格（Art Nouveau），以及擅长绘制人物（多为美丽年轻女性）、广告装饰的阿尔丰斯·穆夏（Alphonse Maria Mucha）作为“动

植物”主题的表达风格。②关于创作主题的选择。创作主题按照“宝石+植物”名称的独特表达方式，如“Aquamarines Stygiomedusa gigantea”（巨型海蓝宝石冥河水母）、“Amethyst gem tree”（紫水晶宝石树）等。③关于材料与载体的选择。原告选择的创作方式为“Hand drawn manuscript”（手绘手稿），所涉及的载体为“Papyrus”（纸莎草）。在西方常见的艺术载体类型中，原告选择莎草纸作为载体，与虚构植物、19世纪画家阿尔丰斯·穆夏的线条和笔触相匹配，产生古老、玄幻又夹杂写实的混合风格。④关于画作形式。涉及的形式包括“biological analysis”（生物分析）、“A detailed explanation of plants”（植物的详细说明）、“Encyclopedia of Plants”（植物百科全书），即一种“自然插图/博物学插画”的风格，原告选择的提示词，对现有的博物学插画进行了改良，构建了一种虚构的、古老的植物笔记风格，从而构建了一种独创的艺术形式。2. 提示词作为表达载体具备独立性及著作权价值。提示词本身即为人类语言表达的成果，类似于文学创作中的构思草稿或作品提纲，其独立的创作价值不应因AI的参与而被否认。3. 独创性认定应聚焦表达方式及个性化选择，非篇幅或事实内容。只要内容上呈现了作者的构思和选择，最简短的篇幅也可以表现出丰富的内容，故提示词的篇幅长短不影响独创性的有无。另外，提示词虽涉及部分公共领域或事实信息，但著作权法保护的并非事实本身，而是事实的表达方式。

第四，本案中提示词不涉及有限表达。涉案提示词虽包含公有领域词汇，但其整体构成以自然语言方式进行的独创性表达，具有足够的表达空间与创作自由度，非为表达某一特定思想或功能所必然采取的形式。1. 提示词非指令集，其表达不属于基于特殊格式、规范等限制而出现的有限表达。2. 提示词也并非计算机软件代码。提示词的本质系自然语言的广泛表达，不受程序语言或技术功能的约束。3. 涉案提示词为创造性提示词，而非搜索式提示词。其反映了原告生成具有独创性内容的明确意图与创造性选择，属于具有表达高度的自然语言文本，而非受限于既有事实或公知表达的有限表达范畴。

被 [REDACTED] 称，一、原告主张的涉案提示词不属于著作权法保护的作品。（一）提示词不属于作品，撰写提示词行为不是创作行为，输入提示词行为也不是发表行为。1. 原告所撰写的提示词不构成文字作品。理由如下：首先，文字作品以文字形式表现，其核心在于通过文字符号体系传递作者的思想或艺术美感。涉案词组就文字作品的标准来看，系公有领域的专业名词或人名，缺乏个性化表达，提示词的顺序也不具有特定意义，本身不构成独立的剧本或短文等有基本审美意义的人类作品，不能被原告所垄断。其次，文字作为一种思想传播的载体，既可以作为具体的表达，也可以作为思想的具象化体现。一方面，人们在传统创作过程中，例如绘画、摄影，会在自己创作目的达成的瞬间，完成思想到表达的转换。但是 AI 工具将创作过程切割为两

段，提示词只是创作过程的一环，而非创作结果。另一方面，人们通过创作，以具体的表达为载体，传递思想、进行交流，但撰写提示词仅是一种人机交互行为，用于指令 AI 完成作画，这种行为不具有社会属性，无法起到人与人之间沟通、交流的作用。况且，构成创作行为的关键是完成从思想到表达的质变，而撰写提示词并非创作行为，非创作活动的量的增加，不能使结果质变为具有独创性。至于提示词中单词的选择，本质上是一种筛选、排列组合，这种选择属于鉴赏能力，而非创作能力，选择行为并非创作行为。再次，输入提示词不是发表行为，例如在百度上搜索问题，输入搜索关键词只是为了得到搜索结果。2. 如果法院认定涉案词组构成文字作品，那么原告也仅能主张涉案词组作为文字作品的著作权，而不能主张涉案词组作为提示词的著作权。因为著作权法保护的是文字作品等具体的作品类型，而提示词仅是作品的表现形式或使用方式。（二）提示词属于思想，不受著作权法的保护。根据思想表达二分法，提示词是思想的具象化而非具体的表达。在 AI 生成图片过程中，提示词的作用是指令 AI 按照用户的想法生成内容。美国版权局也认为提示词本质上是传递不受版权保护的思想的指令，不受著作权法所保护。

二、原告不是著作权人，主体不适格，无权提起诉讼。原告提供的声明和证据不足以证明其对涉案 Midjourney 平台账号中的内容享有著作权。理由如下：1. 声明内容无法证明邮箱与涉案账号的唯一绑定关系。2. 拥有涉案账号绑定的邮箱所有权不意味

着享有 Midjourney 平台账户上的内容著作权。一方面，原告若主张涉案提示词的著作权，需提供彼时彼刻撰写提示词的员工的劳动合同或者委托创作合同，证明作品由法人主持、代表法人意志创作，并约定创作后的成果著作权归属于法人，由法人承担法律责任；另一方面，涉案平台的账号和邮箱未能按照中国的信息网络平台规定进行实名认证，不应受到中国法律的保护。

三、涉案行为不构成著作权侵权。（一）被诉行为非由被告实施。1. 原告主张的权利基础是提示词，但二被告的著作或小红书账号中没有出现过原告主张的提示词，不存在发表、复制、改编提示词等行为。2. 原告没有证据证明被指控的 Midjourney 平台账号 UN■■■■ 属于二被告，事实上该账号也并非属于二被告任一人。

（二）公有领域抗辩。根据 Midjourney 平台服务条款，用户放弃了提示词相关的权益，且这些内容默认进入公有领域。根据《北京市高级人民法院侵害著作权案件审理指南》规定，如果被诉侵权作品与原告作品的相同或相似部分来源于公有领域，被告可以主张公有领域合法来源抗辩。（三）表达有限性抗辩。涉案提示词只是几个词汇的拼接，属于有限表达。另外，比对著作权侵权时，需要抽离思想，过滤有限表达和公有领域内容。本案中的提示词在过滤后已无其他可比对的元素。（四）合理使用抗辩。若公有领域抗辩和表达有限性抗辩都得不到支持，二被告则主张涉案行为系 Midjourney 平台账号 UN■■■■ 所有者对开放社区中的提示词进行描摹学习的个人学习行为，符合著作权法规定的合理使用

范围。

四、其他。（一）原告未能证明其对涉案提示词享有权益，且提示词不构成作品，属于公有领域，原告也未提供证据证明二被告在小红书或其他平台发布了使用涉案提示词生成的 AI 画作及对应提示词，故诉讼请求二中要求二被告删除 AI 画作的请求不合理。（二）原告主张的 9,900 元取证费缺乏合理性和证据支持，无法证明发票与本案公证相关，二被告的行为不构成侵权，不应承担赔偿责任。

综上，二被告请求法院驳回原告的全部诉讼请求。

当事人围绕诉讼请求依法提交了证据，本院组织当事人进行了证据交换和质证。根据当事人陈述和经审查确认的证据，本院认定事实如下：

一、原告主张的涉案提示词内容

2022 年 10 月 14 日，原告委托人孙某某在何乐昌律师行及在中国委托公证人岑某和律师现场监督下，操作该律师行已经连接互联网的电脑进行如下公证保全操作：

1. 开启 GoogleChrome 浏览器，清空缓存，删除浏览历史记录。
2. 在浏览器地址栏中输入 <https://www.midjourney.com>，进入 Midjourney 官网。
3. 点击 Signin 按钮，进入登录页面。
4. 输入用户名和密码。
5. 点击登录。

6. 点击授权按钮，进入个人主页，可见操作人用户名为 qazmlpwert。

7. 点击列表左侧的 ManageSub 按钮，可见 Manage Subscription（中文译文：管理订阅）载明，Basic Membership+Private Access, Monthly fee: \$30USD, WHAT'S INCLUDED: Limited use(-200images/month)、General commercial terms**、Incremental billing after limits(optional)、Access to member gallery（中文译文：基础会员+私人渠道，月服务费：30 美元，服务内容：限制应用（200 张图/月）、普通商业条款、限制后的增量计费（可选择）、进入会员展示的权利），Standard Membership+Private Access, Monthly fee: \$50USD, WHAT'S INCLUDED: Unlimited personal use*、General commercial terms**、Access to member gallery（中文译文：标准会员+私人渠道，月服务费：50 美元，服务内容：没有限制的私人应用、普通商业条款、进入会员展示的权利）。

FAQ（中文译文：常见问题）What is the member gallery?The gallery is the place where paid members can explore images being made on the platform as well as visual dictionaries of words and styles.The gallery also acts as a central place to organize your own images,collect favourites,and more.

（中文译文：什么是会员展示？会员展示是让付费会员发现在平台上制造的图片以及视觉词汇词典的词汇和风格。会员展示同时

会作为组织自己图片和收藏夹的核心场所。)

How does commercial use work? **You're pretty free to use the images in just about any way you want as long as this special-case restriction does not apply to you. If you're using the images as an employee of a company that makes more than 1M/yr USD in revenue you need to purchase a 'Corporate' plan. For complete details, please see our terms of service.

(中文译文: 商业用途是怎么运作的? 你可以非常自由地以自己想要的任何方式使用这些照片, 只要不存在以下的特殊限制情况: 如果你是一家年收入超过 100 万美元的公司的员工, 你需要购买公司计划。完整细节详见服务条款。)

8. 点击左侧列表的 Help&FAQ 按钮, 可见 Quick Start Guide

(中文译文: 快速开始指南), Midjourney is an independent research lab exploring new mediums of thought and expanding the imaginative powers of the human species. There are two ways to experience the tools: the Midjourney Bot, which you can use to generate images, and the web app at <https://www.midjourney.com/>, where you can find a gallery of your own work and other users' creations. You can use our Midjourney Bot on our official Discord server (<https://discord.gg/midjourney>) as well as on any

other Discord server where it has been set up. If you wish to invite the bot to your own community, follow the instructions on this page: Use Midjourney on your own Discord Server. (中文译文: Midjourney 是一个独立的试验室, 正在探索思考和扩大人类的图片能量的新方式。有两种体验这个工具的方式: Midjourney Bot, 在这里面你可以用它来生成图片, 网址是 <https://www.midjourney.com/>, 在这个网站中你可以找到你自己的作品的展示栏和其他人的创作。你可以在我们的官方 Discord 服务器 (<https://discord.gg/midjourney>) 上使用我们的 Midjourney 机器人, 同时也可以在其他已设置该机器人的 Discord 服务器上使用。如果你希望邀请 bot 进入你自己的社区, 请根据如下页面中的指示进行操作: 在你的 Discord 服务器中使用 midjourney。)

9. 返回个人主页。

10. 点击左侧列表的 About&Careers 按钮, 可见 ABOUT: Midjourney is an independent research Lab exploring new mediums of thought and expanding the imaginative powers of the human species. (中文译文: 关于: Midjourney 是一个独立的研究实验室, 探索新的思维媒介, 拓展人类的想象力。)

11. 点击页面尾部的 “Term of Service” 链接, 可见 Terms of Service (中文译文: 服务条款), Version Effective Date:

August 28, 2022 (中文译文: 版本生效日期: 2022 年 8 月 28 日),

Rights you give to Midjourney: By using the Services, you grant to Midjourney, its successors, and assigns a perpetual, worldwide, non-exclusive, sublicensable no-charge, royalty-free, irrevocable copyright license to reproduce, prepare Derivative Works of, publicly display, publicly perform, sublicense, and distribute text, and image prompts you input into the Services, or Assets produced by the service at your direction. This license survives termination of this Agreement by any party, for any reason. (中文译文: 您给予 Midjourney 的权利: 通过使用服务, 您将授予 Midjourney 及其继任者永久、全球范围内的、非排他性的、再分许可的、免费的、免版税的、不可撤销的版权许可, 以复制、制作、公开展示、公开表演、再许可和分发您输入服务中的文本和图像提示或根据您的指示由服务生成的资产的衍生作品。无论由任何原因任何一方终止本协议, 该许可协议仍然有效。)

Your Rights: Subject to the above license, you own all Assets you create with the Services. This does not apply if you fall under the exceptions below. Please note: Midjourney is an open community which allows others to use and remix your images and prompts whenever they are posted in a public

setting. By default, your images are publically viewable and remixable. As described above, you grant Midjourney a license to allow this. If you purchase a private plan, you may bypass some of these public sharing defaults. (中文译文：您的权利：根据上述许可，您拥有使用服务创建的所有资产。如果您符合以下例外情况，则不适用。请注意：Midjourney 是一个开放的社区，允许其他人在公共场合使用和重新组合您发布的图像和提示。默认情况下，您的图像可以公开查看和重新混合。如上所述，您授予 Midjourney 许可允许这样做。如果您购买了私人计划，您可以绕过这些公共共享默认设置。)

12. 返回个人主页。

13. 点击左侧列表的“Community Feed”按钮。

14-38. 在上方搜索栏依次输入下列六组关键词，点击搜索并查看。

(1) Art Nouveau style illustration of Aquamarines Stygiomedusa gigantea, by Alphonse Maria Mucha. Ancient hand-painted manuscripts, Papyrus, Complex and delicate jellyfish texture, Gorgeous gold inlaid wooden picture frame, Mirror symmetry.

(2) Art Nouveau style illustration of Turquoise Butterfly, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, Complex and delicate butterfly

texture,Biological notes , Central composition,Mirror symmetry.

(3) Art Nouveau style illustration of lapis lazuli Butterfly, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, Complex and delicate butterfly texture, Biological notes, Mirror symmetry.

(4) Art Nouveau style illustration of Amethyst gem tree, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, Notes for organisms, Encyclopedia of plants, interpretative statement, Central composition, Mirror symmetry.

(5) Art Nouveau style illustration of the emerald ganoderma scene , by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus, biological analysis, A detailed explanation of plants, Encyclopedia of Plants, Intricate, elaborate , Rich and detail texture , Center of the composition.

(6) Art Nouveau style illustration of Brocade carp in Black Opal, by Alphonse Maria Mucha, Hand drawn manuscript, Papyrus , biological analysis , Detailed description of biological signs, Encyclopedia of Marine life, Fine black koi texture details, Center of the composition.

孙 对上述过程作出下载网络资料声明书, 中国委托公证

人岑某和律师对该声明书进行了公证。2022年10月19日，中国法律服务（香港）有限公司对该公证文书加盖中华人民共和国司法部委托香港律师办理内地使用的公证文书转递专用章（深办第45290号）。将上述第14-38步操作进行整理，附图如后。

2025年6月25日，原告及其法定代表人温某共同出具一份《Midjourney 账号状态声明》，载明“我司长期从事艺术创作、文化传播、新媒体等领域内容，为工作需要，我司法定代表人温某代表公司申请注册了 Midjourney 平台账号 BY[REDACTED]，提供给公司内部使用，用于生成业务所需的 AI 画作内容，不作其他用途。BY[REDACTED] 系我司当时运营的艺术 IP ‘半叶山茶’ 的拼音首字母缩写，登录账户和密码是在公司内部公开的，其他同事需要 AI 作画时也可登录使用。该账号产出内容应当视为以公司为作者。由于 Midjourney 平台特点，没有实名制认证，但该账号目前绑定着温某控制的个人电子邮箱 [REDACTED]”

审理中，原告委托诉讼代理人展示涉案提示词生成图片的系列过程，以涉案提示词一为例：

原告委托诉讼代理人登录 Midjourney 平台账号 BY[REDACTED]，打开聊天记录显示，2022年8月3日21时，在 Discord 输入框中输入提示词 “Art Nouveau style illustration of Aquamarines Stygiomedusa gigantea, by Alphonse Maria Mucha, Ancient hand-painted manuscripts, Papyrus, Complex and delicate jellyfish texture, Gorgeous gold inlaid wooden picture

frame, Mirror symmetry”，系统返回一组四宫格图片供选择，点击图片下方“U4”按钮（对第四张图片放大），即生成相应水母图片（附图涉案提示词一生成的左图）。

二、原告指控的被诉侵权行为

1. 2022年8月31日，原告委托诉讼代理人通过联合信任时间戳服务中心进行证据保全（证书编号：TSA-04-20220831428054438），根据可信时间戳认证证书及截屏显示，小红书平台用户“[REDACTED]”（小红书号[REDACTED]，粉丝8.7万，笔记48）于2022年8月17日编辑笔记 [REDACTED]》，使用图片如后（以下简称涉案图片一）。

2022年8月18日编辑笔记 [REDACTED]》，使用图片如后（以下简称涉案图片二）。

2022年8月20日编辑笔记 [REDACTED]》，使用图片如后（以下简称涉案图片三）。

上述三篇笔记下方均载明“版权声明·商用请联系授权 相关二创·转载请注明出处”，并有标签“#插画#插画分享#Midjourney”。

2. 2022年8月31日，原告委托诉讼代理人通过联合信任时间戳服务中心进行证据保全（证书编号：TSA-04-20220831427242392），根据可信时间戳认证证书及截屏显示，抖音平台用户 [REDACTED]”（抖音号 [REDACTED]，粉丝

2022 年 11 月 3 日，案外人北京鼎友律师事务所向原告开具 9,900 元发票，项目名称“*法律咨询*服务费”，备注“取证，公证号 SHW/CA/22100682”。

2025 年 3 月 7 日，行■信息科技有限公司（上海）有限公司出具《用户信息披露》，载明“小红书 ■■■■■■，昵称 ■■■■■■”。

庭后，原告提供了法定代表人温某输入密码登录电子邮箱 ■■■■■■ 的录屏及原告出具的书面说明，以证明温某系邮箱所有人，公司与员工有过约定，“BY■■■■■”账号归属于原告，创作出来的提示词亦归属于原告；被告提供了账户截图及书面说明，以证明 ■■■■■■ 在 Midjourney 平台上的账号为 say*****_611，■■■■■■ 没有专属 Midjourney 平台账号，其使用 Midjourney 主要通过借用他人 Midjourney 账号以及在网络平台租赁短期共享账号。

以上事实，有原告提供的《声明—下载网络资料声明书》《Midjourney 账号状态声明》、可信时间戳认证证书及视频、■■■■■■ 艺术图鉴》、演示过程录屏、发票等证据，以及当事人陈述、证据交换笔录、庭审陈述笔录等在卷佐证。

本院认为，原告及其法定代表人温某书面声明，“BY■■■■■”这一 Midjourney 平台账号系为完成公司创作活动、由温某代表原告注册并供公司内部使用的创作工具。该账号在公司内部公开，旨在汇聚团队创意、整合创作思路，体现了原告的创作意志。虽

然该账号绑定着温某的个人邮箱，但这仅为平台注册的技术性要求，该账号的使用及产出均服务于原告的业务需求，温某对此亦予确认。

原告委托诉讼代理人当庭操作账号“BY[REDACTED]”登录Midjourney平台，并完整展示了在该账号内输入涉案提示词、提交生成指令并最终生成图片的过程，当庭呈现的操作过程与原告诉称的涉案提示词及图片内容一致。原告使用涉案提示词生成图片，也是基于原告的创作意图，借助创作工具完成，其相关法律责任由原告承担。因此，在无相反证据的情况下，原告主体适格。

根据原、被告的诉辩意见和查明的事实，本案主要的争议焦点为：一、涉案提示词是否构成文字作品；二、被诉行为是否构成侵权。对上述争议焦点，本院分别予以评判。

一、涉案提示词是否构成作品

我国著作权法所称的作品，是指文学、艺术和科学领域内具有独创性并能以某种有形形式复制的智力成果，其核心在于“具有独创性的表达”。因此，提示词是否属于著作权法意义上的作品，应考虑两方面，一是提示词是否具有独创性，二是提示词属于“思想”还是“表达”。

1. 涉案提示词不具有独创性

独创性作为作品获得著作权法保护的首要条件，包括两个方面：一是源于作者独立创作，二是体现作者的个性选择与创造性表达。

在传统创作中，独创性要求作者在创作中的取舍、安排、设计等智力投入达到体现个性的程度。从这一标准看，在 AI 辅助创作中，判断提示词是否具有独创性，应重点考察用户在提示词的设计与调整过程中是否存在实质性智力创造，并体现出个性化表达。一般而言，提示词越具有针对性、表达越具体细致，其所反映的个性化取舍和审美选择就越充分，从而更有可能达到独创性要求。然而，独创性并非取决于提示词的长度或复杂度，而取决于其是否体现出创造性表达的结果。值得强调的是，人类投入必须具有“创造性而不是劳动性”，即使花费大量时间反复修改提示词，若仅涉及对通用提示词的排列组合或对常见风格词语的简单堆砌等，通常尚难认定为独创性表达。反之，若提示词经过有目的的构思与语义设计，能够呈现出独特的审美取向或创意表达，则可视为具有创造性的智力投入。

本案涉及的 Midjourney 平台是一款基于生成式人工智能的图像生成工具，其底层采用扩散模型等深度学习算法，通过对大规模图像文本配对数据的学习，实现从语言提示到图像生成的自动转换。在 Midjourney 模型中，提示词结构分为图片提示、文本提示词和后缀参数，表现为三种情形，即文本提示词、文本提示词+后缀参数、图片提示+文本提示词+后缀参数。其中，文本提示词通常是影响生成结果的主要控制要素。文本提示词可以是单个词语，也可以是一个完整的短语或句式。用户对提示内容构思越具体、语义越明确，生成图像的主题和风格就越确定。简短或模

糊的提示会让 Midjourney 平台采用默认风格来自动补足细节。本案因模型特殊性，提示词局限于词或短语形式。

涉案六组提示词采用的基本结构为艺术风格、主体元素、材质与细节、科学语境和主要构图。其中，艺术风格为“Art Nouveau style”（新艺术风格）和“by Alphonse Maria Mucha”（阿尔丰斯·穆夏的创作风格），主体元素为“Aquamarines Stygiomedusa gigantea”（巨型海蓝宝石冥河水母）、“Turquoise Butterfly”（绿松石蝴蝶）、“lapislazuli Butterfly”（青金石蝴蝶）、“Amethyst gem tree”（紫水晶宝石树）、“the emerald ganoderma scene”（翡翠灵芝场景）、“Brocade carp in Black Opal”（黑蛋白石锦鲤），材质为“Papyrus”（纸莎草），细节为“Ancient hand-painted manuscripts”（古代手绘手稿）、“Intricate”（复杂的）、“elaborate”（精心制作的）、“Rich and detail texture”（丰富细腻的细节纹理）、“Gorgeous gold inlaid wooden picture frame”（华丽的镶金木质相框）等，科学语境为“Biological notes”（生物笔记）、“Notes for organisms”（生物体注释）、“Encyclopedia of plants”（植物百科全书）、“interpretative statement”（解释性说明）、“biolysical analysis”（生物分析）、“A detailed explanation of plants”（植物的详细说明）等，主要构图为“Mirror symmetry”（镜面对称）、“Central composition”（中央构图）。

结合作品的判定标准来看，涉案六组提示词，本质上是用户

输入 AI 系统的指令或描述，用于引导 AI 生成特定图片。从形式上看，它们虽包含多类元素，但各元素间仅为简单罗列，缺乏语法的逻辑关联，未形成具有内在结构的语言表达；关键词组呈无序组合状态，既无结构层次的递进，亦无场景化的叙事顺序。例如，“Ancient hand-painted manuscripts”（古代手绘手稿）、“Complex and delicate jellyfish texture”（复杂细腻的水母质感）等短语，虽然各自包含一定语义信息，但组合在一起时仍缺乏逻辑上的连贯性。从表达的独创性角度审视，这些提示词缺乏作者的个性化特征，所选用的艺术风格、材质细节或主要构图等均属该领域的常规表达，没有体现作者独特的审美视角或艺术判断。原告认为，其将适用于建筑材料的新艺术风格和擅长绘制人物的画家风格作为“动植物”主题的表达风格，以及“宝石+动植物”的创作主题命名方式等，体现了原告的独创性表达。事实上，在传统绘画领域，艺术家将熟悉的风格迁移到不同题材的做法并不少见，而基于视觉（颜色、形态）或文化象征的关联，将宝石与动植物相结合，也属于常见的创作手法，难以构成独创性表达。此外，虽然法律对文字作品长度未设字数门槛，但作品仍需具备表达完整性，以满足独创性和一定表达深度的要求。涉案提示词如“Hand drawn manuscript”（手绘手稿）、“Biological notes”（生物笔记）等仅为几个短语构成的组合，缺乏完整的语言结构与表达深度，无法像正式作品那样通过足够的文字量充分表达完整内容。同时，这些短语仅简单告知 AI 画面风格和场景，

未对风格、场景等进行深层次解读或赋予特殊意义，也未展示应有的艺术美感。综上所述，涉案提示词虽包含一定描述性内容，但其表达尚不足以体现创造性智力投入，不宜认定为具有独创性的文字作品。

2. 涉案提示词属于“思想”而非“表达”

思想是抽象的、不受法律保护的，比如思路、观念、理论、构思、创意、概念等等，而表达是具体的、可以通过法律进行保护。即法律仅对作品的表达给予保护，而不延及思想本身。在AI生成内容的背景下，提示词既是用户向AI系统传达创作意图的媒介，也是连接人类思想与AI输出的桥梁。多数情况下，提示词的功能是传递创作需求，如“写一篇关于下雪的文章”“作一幅下雪的画”，这类提示词属于对创作主题、风格的指令，通常被视为“思想”范畴。但如果用户撰写“忽如一夜春风来，千树万树梨花开”这样具备文学独创性的文本并要求AI以此为基础进一步创作，由于该提示词已超越纯粹的功能指令，体现了独特的语言选择与艺术表达。在此情形下，提示词可能被视为具有表达属性的受保护作品。

本案中，涉案提示词核心是对画面元素、艺术风格、呈现形式等的罗列与描述，这些内容更多属于抽象的创作构思，即“想让AI生成什么样的画作”这一想法本身，这个想法从性质上看，属于思想范畴。而具体如何用线条和色彩等笔触去描绘“Turquoise Butterfly”（绿松石蝴蝶）的形态细节、风格特点，

或画作要传达的情感氛围等，才可能构成“表达”。仅停留在思想层面的涉案提示词，由于其内容属于创作构思的抽象要求，而非具体表达，故不应被认定为受著作权法保护的作品。

著作权法的立法目的在于鼓励创作，以此推动文化和科学事业的发展。若简短的指令、关键词组合等类型的提示词被认定为作品并受著作权法保护，可能带来两方面风险。一方面，语言的自由使用将受到限制，可能导致语言资源的过度私有化。一旦类似提示词被认定作品受到保护，其他人在使用相同或近似词汇组合引导AI生成内容时，就可能面临侵权的风险，创作也会受到抑制。另一方面，AI的创新生态会受到制约。提示词是AI生成内容的重要引导因素，丰富多元的提示词能激发AI的创造力，推动AI在更广泛领域的探索。若对提示词的使用设置过度的权利边界，AI获取的指令和数据将会急剧减少，不利于技术创新和多领域应用的发展。

综上，出于对著作权法保护边界的体系性解释和对公共利益的平衡考量，涉案提示词反映一定的创作意图，但并没有体现出作者在表达层面的个性化智力投入，不宜认定为具有独创性的作品。

二、被诉行为是否构成侵权

原告认为被告擅自使用其拟定的涉案提示词生成AI画作，侵犯了原告享有的复制权、发行权、信息网络传播权和署名权。本院对所涉相关问题分析如下：

首先，原告缺乏主张权利的基础。如前所述，涉案六组提示词不构成作品，在此情况下，原告对提示词不享有著作权，自然无权主张著作权侵权。

其次，即便涉案提示词受到著作权法的保护，原告亦未能证明二被告使用了涉案提示词。在案证据证明了两个事实：一是有人通过UN■■■■账号在Midjourney平台上用涉案提示词生成了涉案图片，二是二被告在小红书和书籍中使用了涉案图片。据此，原告推定二被告系涉案提示词的使用人。对此，二被告进行了反驳，一是向法院展示了自己Midjourney平台的账号和租赁的账号，均非UN■■■■账号；二是涉案图片在Midjourney平台处于公开状态，任何用户均可浏览、使用、获取，其获得涉案图片的途径系来源于公开网络。因此，在原告未进一步举证的情况下，本院认为将使用账号U■■■■的行为归于二被告，事实依据不足。

依照《中华人民共和国著作权法》第三条、《中华人民共和国民事诉讼法》第六十七条第一款的规定，判决如下：

驳回原告成都某某文化传播有限公司的全部诉讼请求。

案件受理费50元，由原告成都某某文化传播有限公司负担。

如不服本判决，可在判决书送达之日起十五日内，向本院递交上诉状，并按对方当事人的人数提出副本，上诉于上海知识产权法院。

(此页无正文)

审 判 长 李 露

审 判 员 胡古月

人民陪审员 朱 云



本件与原本核对无异

书 记 员 吴 昊