Case Study 3: The use of generative AI and the possibility of copyright, patent, and trademark infringement

The use of generative AI and the possibility of copyright, patent, and trademark infringement due to the use of copyrighted training datasets that may also include trademarked and patented process. Students will play the role of an executive in a media company that is considering using generative AI for some of its content.

Goals:
- To introduce students to the legal and philosophical issues related to training sets for generative AI as well as whether these training sets qualify as "fair use" under the copyright act when the training material is copyrighted

Tags:
- Principle of Well-Being
- Principle of Solidarity
- Virtue Ethics*
- Consequentialist Ethics*
- Deontological Ethics*

Assigned Readings:
[More Writers Sue OpenAI for Copyright Infringement Over AI Training (usnews.com)](usnews.com)

[Generative AI Has an Intellectual Property Problem (hbr.org)](hbr.org)

[Should CC-Licensed Content be Used to Train AI? It Depends. - Creative Commons](#)

[Is the Use of Copyrighted Works to Train AI Qualified as a Fair Use (copyrightalliance.org)](copyrightalliance.org)

[Making music with AI? Start with these ethical guidelines - Water & Music (waterandmusic.com)](waterandmusic.com)

Implementation and Assessment
This topic will be covered in two days, within one week . Prior to the first class for the week, students are to complete the reading assignments and to come in with a written statement that answers the question: "Should copyrighted, patented, or trademarked works be used to train generative AI?**"**

During the first class, students are to break up into small groups on each of the three key philosophical questions:
- Should copyrighted, patented, or trademarked works be used to train generative AI?
- Should generative AI be used even if those works are creative commons works?

Between the first and second classes, students will also be asked to use both the Chat GPT/Open AI model as well as Stable Diffusion to generate a written and image work respectively.

During the second class, students will be asked to discuss what clues can be gleaned as to whether something is AI generated or human generated. Students will then debate the question:

- Does generative AI qualify as "fair use" under the copyright act when the material is material is copyrighted?

Students will then do a short (2 to 4 page) paper answering the three questions that were detailed for themselves with reference to both the debate and class readings that will be due the following week. Note that the first question on whether "Should copyrighted, patented, or trademarked works be used to train generative AI" is the same question as the pre-question for this module.