

Feedback Regarding Artificial Intelligence and Copyright

Disclaimer: As the questions presented by the U.S. Copyright Office pertain to content creation for the purpose of copyrights, I will do my best to limit my responses to those issues. I will not be talking about uses such as customer support or other issues surrounding job replacement. I will also mark if my my answers pertain to AI generated written content (using tools such as ChatGPT), image content (using tools such as Midjourney), or both.

My Background:

I was an English teacher for almost ten years before becoming a professional editor. I have been happily editing fiction novels for the last four years. While I have no plans to publish at this time, I have been a hobbyist writer for most of my life, writing for practice and community.

I fully understand why many people are worried about this technology. It will change the industry drastically. Like other historical changes to industries, many people will lose their jobs. The assembly line, and later robots in factories left many without jobs. Some professions that were common fifty years ago no longer exist.

If I'm not careful to keep up with the changes and continue to add value to my clients, I may be one of those that loses my livelihood. AI has been present in the industry for many years. Tools like Grammarly help people edit with greater and greater accuracy each year. My husband works as a professional translator and has been dealing with "machine translation" issues within that industry for almost a decade.

I fully understand that I may not be able to keep up with the rapid changes to the industry. So when my answers to questions and feedback generally supports the development of AI technology, and may seem to not support content creators, know I am not ignorant of the consequences.

I have faith that like every other industry shift in history, humanity will adjust. I know one way or another, I will land on my feet and continue to support my family one way or another. I hope that when this shift has settled, the world will be a better place.

General Questions:

1. As described above, generative AI systems have the ability to produce material that would be copyrightable if it were created by a human author. What are your views on the potential benefits and risks of this technology? How is the use of this technology currently affecting or likely to affect creators, copyright owners, technology developers, researchers, and the public?

[Both Forms of Content]

Like every technological tool before, generative AI can help the process of writing. Brainstorming, research, outlining, summarizing, and analyzing can be made more efficient with this technology. Depending on the type of content, the technology can help draft content as well. Humans create technology to make work easier. There is much room for improvement, but this technology is doing that.

As with any tool, most risks come from the people abusing the tool. Students cheating, companies no longer needing people, etc. Like the saying goes: “Guns don’t kill people; people kill people.” We regulate guns—enough or not enough is a separate political issue; but the fact is that we do regulate them and have laws against killing people. Laws to prevent abuse are needed, though what I think of as abuse may fall more under criminal and labor laws than copyright.

One risk I see pertaining more toward copyrighted material is that the markets will be flooded, and it will be harder for new creators to get noticed in the sea of garbage. The saturated market could create a heavy increase in supply and lower the overall monetary value of content. Right now, it’s already easy to tell the difference in quality between someone who just typed in a single prompt and those that wrote something with care. People will crave quality, and there will continue to be opportunities for creators. Ones that use the AI as a tool rather than to do the work for them completely will continue to stand out.

People may need to learn to develop and hone creative and editing skills, rather than writing base sentences. Either way, people will be needed.

2. Does the increasing use or distribution of AI-generated material raise any unique issues for your sector or industry as compared to other copyright stakeholders?

[Written Content]

As a professional editor, an increase in the creation of materials may lead to an increase in demand for skilled editors. It may also drive writers to develop their own editing skills and make me more obsolete. There is no telling what the future will bring.

As an hobbyist author, the increase in distributed materials may make it more difficult to compete and get noticed should I ever decide to publish my work. If that day comes, I may have to improve my marketing knowledge.

4. *Are there any statutory or regulatory approaches that have been adopted or are under consideration in other countries that relate to copyright and AI that should be considered or avoided in the United States?*⁴⁰ *How important a factor is international consistency in this area across borders?*

[Both Content]

I have not seen anything from other countries that I view as particularly strong at this point. I will say that consistency regarding AI and copyright is very important. Inconsistencies between countries already cause problems. AI is only going to make that more difficult to navigate.

Training Questions:

There are many questions in this section with many subpoints. I will provide a blanket statement regarding training in general, rather than address each individual point.

[Written Content]

Human writers and authors are absolutely influenced by what they read. Many writers have beloved authors whose ideas and writing styles have helped shape them as authors. In my opinion, AI “reading” this content and using it to learn is the same as people reading it and learning. Writers are always told that if they want to improve their writing, they need to read more. University courses for writing majors are filled with reading, reading, reading.

Whole articles are written that explain to aspiring writers that they need to read:

<https://www.thoughtco.com/writers-on-reading-1689242>

The real importance of reading is that it creates an ease and intimacy with the process of writing; one comes to the country of the writer with one's papers and identification pretty much in order. Constant reading will pull you into a place (a mind-set, if you like the phrase) where you can write eagerly and without self-consciousness. It also offers you a constantly growing knowledge of what has been done and what hasn't, what is trite and what is fresh, what works and what just lies there dying (or dead) on the page. The more you read, the less apt you are to make a fool of yourself with your pen or word processor. ...

"[R]ead a lot, write a lot" is the great commandment.

(Stephen King, On Writing: A Memoir of the Craft, 2000)

Last time I checked, we don't charge people with copyright violations because they read our work and were inspired. Copyright laws (as I understand them) are there to protect an entire work from being copied.

- If someone copies a novel (either through AI or pencil and paper), that is a violation.

- If someone (either through AI or pencil and paper) studies another author's style, mimics it, and tries to pretend it was, in fact, written by that author to make money, that is a violation (though now that I think that might be more trademark law than copyright?).

- If someone reads a thousand novels, analyzes them, learns from them, and uses what they've learned to produce something new, that is not. Regardless of which tool they used.

[Image Content]

My thoughts to this are similar. Artists in school are expected not only to look at and study the work of other artists, but actually—for the purpose of learning—copy that work. They learn to draw, paint, and sketch in the style of other artists. Eventually, they use that knowledge to create new things. It's how humans learn. From what I've read, we are much faster at it than AI—requiring far less data. AI can now beat chess masters, but I remember reading something that it took 140 years of game time to achieve that. Human masters only require a few decades. The difference was that AI could experience 140 years of data in about 2 years.

Do artists charge a license fee to University teachers that show their work on the projector screen in class? Do they charge the students who were inspired by their work to go out and create new things?

[Both Content]

To my knowledge, there are already copyright laws that regulate what percentage of copyrighted work must be copied to be considered a violation. If an AI copies a whole paragraph of a novel, word for word, then yes, take them to court. Writers that are worried about that possibility use AI at their own risk. Sounds like they better take the AI generated words as a first draft and work on it further.

Regarding Terms of Service:

[Both Content]

I have read in the news recently that a few major news agencies (I believe New York Times being one of them) recently put in their terms and service that using their content for the training of AI language models is a violation. As this pertains to the use of paid access services—not freely available to the public—they should have the right to prosecute for the violation. Other services should be able to provide similar terms. Whether these terms give people an avenue to get as much

money as they want from an AI platform sounds like something outside of copyright law, so I will leave this topic here.

Copyrightability Questions:

Again, I will give blanket comments here rather than answering each and every question individually.

[Written Content]

I don't think the AI software itself should ever be able to claim copyright. It's not living person nor a legal entity like a company. There are already cases in courts that seem to support this idea, and I agree with the decisions.

I do think people should be able to copyright material they create using these tools if they also were involved in the process. If they use prompts to brainstorm ideas, select the ideas they think original, outline the content, use prompts to draft it, take it through an editing process, and format it, and package for sale, then there shouldn't be a problem. People do that with ghost writers all the time. I've edited a non-fiction novel before where the owner hired a ghost writer to write the piece, hired other people to read it and give feedback, hired me to edit, hired a cover artist, hired a formatter, and hired a private publishing company. She never even read it until after it was up on Amazon. If she can own the copyrights for that, how is using AI tools in that process different?

There will need to be regulations in place on what counts as evidence of human involvement. Things that might be included in this:

- records of prompts and draft versions
- records of personally created materials used exclusively by that person to input as part of the prompt to match style and content
- contracts with other human resources that worked on the content

[Image Content]

Similar to written content, there would need to be some proof of human involvement. Some examples:

- records of prompt engineering beyond just one simple prompt—Example: in the news when this all first hit, I remember a guy who won an art competition. In the interview, he mentioned that it took him 80 hours of work, changing the prompt little by little to get the final result

- records of version history if an artist uses something like Photoshop to alter the image themselves and enhance the piece of art
- contracts with other human resources that worked on the content

Infringement Questions:

[Both Content]

Similar to above. There are already laws that differentiate whether someone has violated copyright from someone using a word processor, or a canvas and paint. If the content produced by AI doesn't copy things to the same extent, it's not a copy.

Additional Questions About Issues Related to Copyright:

30. What legal rights, if any, currently apply to AI-generated material that features the name or likeness, including vocal likeness, of a particular person?

If someone tries to make a movie and AI puts me in it as a character without my permission, that is a violation just as much as if they took my written work and made it into a script. If someone takes my picture from public content and uses it to train AI alongside a million other people to generate a new "person" to use as a character, it's the same as an artist painting a new character. AI can just animate such "people" much faster than someone with a pencil and paper. Same idea with vocals.

31. Should Congress establish a new federal right, similar to state law rights of publicity, that would apply to AI-generated material? If so, should it preempt state laws or set a ceiling or floor for state law protections? What should be the contours of such a right?

Yes, congress should absolutely preempt state laws and set floors or ceilings. Sadly, I don't think that the current political environment will allow for that process. I have a feeling that this will all be figured out through court battles, rather than law makers at this point.

32. Are there or should there be protections against an AI system generating outputs that imitate the artistic style of a human creator (such as an AI system producing visual works "in the style of" a specific artist)? Who should be eligible for such protection? What form should it take?

No. People do this all the time using people that "inspire" them. This is just a different tool.