

1. 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?

As an author, the incipient glut of AI generated dreck makes being seen difficult. Sure, I'm a better writer, but it's easy to get lost in the sheer volume produced by people prompting a LLM. Author Janel Fridman already had to fight Amazon to take down GenAI books created with her name on it. Read that again—she had to *fight* to clear her name. Midlist authors will struggle time and again with this. Copywriters are losing jobs, or worse, being asked to “fix” the nonsense spewed out by GenAI. Artists are losing commissions. Actors are fighting for contract language to protect their image. Voice actors who audition to some websites are being forced to have their voices train a LLM, and thereby train their replacement. Already creatives are being hurt. After much thought, I have come to the conclusion that the risks of this technology far outweigh any putative benefit. Already we are seeing deepfakes of people that are quite believable. Ultimately, the public at large will no longer be able to believe any video, picture, or written work they see. Society is already at a point where to some people truth is subjective. This will make a fraught situation even worse. Deepfake porn exists. Society is already seeing damage, and I cannot see any use that does not inevitably lead to extreme harm for society as a whole.

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?

At first, I was tempted to say that authors face what all creatives face, but upon reflection, I think that the issues around GenAI and creatives are compounded for authors. Not only do we have to rise above AI written works—such as their hallucinations in Non-Fiction or outright theft of phrases in fiction-- but we also must be vigilant that AI isn't used on our covers or that AI is used for audio recordings. GenAI touches publishing in many ways.

Questions 3 through 8 are, in some ways, above my paygrade and you'll be inundated with responses. Just know that the creators of GenAI programs have every reason to obfuscate and will equivocate down to arguing how many angels dance on the head of an LLM.

9. Should copyright owners have to affirmatively consent (opt in) to the use of their works for training materials, or should they be provided with the means to object (opt out)?

I firmly believe that I should have the right to opt in my copyrighted works. If someone wished to use my work beyond the limits of fair use, they would have to be granted permission. Scraping my novels for an LLM requires my permission. Opting out puts the onus on creators and that is not fair, nor can I think of any other circumstance where such a system exists.

9.1. Should consent of the copyright owner be required for all uses of

copyrighted works to train AI models or only commercial uses?

Yes, consent should be required for ALL uses. TechBros have a habit of sharing data sources, such as LAION.

9.2 If an “opt out” approach were adopted, how would that process work for a copyright owner who objected to the use of their works for training? Are there technical tools that might facilitate this process, such as a technical flag or metadata indicating that an automated service should not collect and store a work for AI training uses?

Honestly, an opt out approach is a nightmare for creatives, especially with the proliferation of datasets and programs, which is, of course, what the AI proponents want—to make it so difficult that it doesn’t happen, and they get their free dataset.⁸

9.3. What legal, technical, or practical obstacles are there to establishing or using such a process? Given the volume of works used in training, is it feasible to get consent in advance from copyright owners?

I am certain that technology could be developed, but I don’t think “opt out” is reasonable. The second question should be a moot point and remain unasked. LLMs violated copyright by using works without consent—they broke the law—I don’t care how feasible it is for them to come into compliance. The law does not ask how feasible it is for those who ignore it to remedy the situation.

9.4 If an objection is not honored, what remedies should be available? Are existing remedies for infringement appropriate or should there be a separate cause of action?

If an objection is not honored, fines that are egregiously punitive should be levied. They would have to go beyond “the cost of doing business.” Otherwise, slaps on the wrist will be brushed off—and most likely written off on taxes. This should not be allowed. Personally, I think the company should cease to exist, but that’s just me.

9.5. In cases where the human creator does not own the copyright—for example, because they have assigned it or because the work was made for hire—should they have a right to object to an AI model being trained on their work? If so, how would such a system work?

No, if a creator does not own copyright, then they should not be able to object unless it is written into the contract assigning copyright or sale, for it not to be used to train a LLM, but that becomes an issue for contract law.

10. *If copyright owners' consent is required to train generative AI models, how can or should licenses be obtained?*

I think they should have to ask me. I own the copyright, no one else does. As such, I don't see any vehicle that could bundle the consent.

Questions 11 through 17 ask primarily about the feasibility of licensing and identifying which data has been used. Look, they know what they scraped. It's their issue. They should have to come into compliance or delete the dataset and discontinue use of the programs.

18. *Under copyright law, are there circumstances when a human using a generative AI system should be considered the "author" of material produced by the system? If so, what factors are relevant to that determination? For example, is selecting what material an AI model is trained on and/or providing an iterative series of text commands or prompts sufficient to claim authorship of the resulting output?*

No. Consider this: why would a prompt jockey revise the prompts instead of writing the story themselves? Because it is hard work and takes time. If a prompter cannot do the work, they don't get the copyright. Consider the case of the monkey who took the picture. In this analogy, the prompter is the photographer and the LLM is the monkey, and it is not human. Ergo, not able to hold copyright.

19. *Are any revisions to the Copyright Act necessary to clarify the human authorship requirement or to provide additional standards to determine when content including AI-generated material is subject to copyright protection?*

Only revisions that make it clear that GenAI material is not copyrightable.

20. *Is legal protection for AI-generated material desirable as a policy matter? Is legal protection for AI-generated material necessary to encourage development of generative AI technologies and systems? Does existing copyright protection for computer code that operates a generative AI system provide sufficient incentives?*

No, it isn't desirable. I don't think GenAI systems should be encouraged, despite the shouting to the contrary. There is an entire subgenre of literature and film devoted to the slope we are on. Choose one and study it. You'll see why. (May I recommend *The Matrix* or anything by Phillip K. Dick?)

21. *Does the Copyright Clause in the U.S. Constitution permit copyright protection for AI-generated material? Would such protection "promote the progress of science and useful arts"?⁵² If so, how?*

No, because these aren't generated by humans, and while some may argue that it "promotes...arts," we can debate whether it is useful when it is deleterious to wide swathes of society. Should a product that is destined to ruin the livelihoods of most people be promoted? Very few careers will be untouched by GenAI. The logical ultimate consequence of this

technology is human immiseration. LLMs will be able to prompt themselves before very long. It isn't a printing press, as some who cheerlead AI would have it. It is a nuclear bomb. We don't want people being able to have those, do we? Technology that would impoverish people should be restricted. Learn to code, they say. Why? LLMs will do it for us.

Questions 22 through 27 would largely elicit redundant answers from me.

28. Should the law require AI-generated material to be labeled or otherwise publicly identified as being generated by AI? If so, in what context should the requirement apply and how should it work?

Yes, it should be clearly labeled upfront and not buried in some sort of metadata. Think like a black box warning on cigarettes or some medications.

28.1. Who should be responsible for identifying a work as AI-generated?

The creator AND whomever disseminates the work.

28.2. Are there technical or practical barriers to labeling or identification requirements?

Not that I'm aware of.

28.3. If a notification or labeling requirement is adopted, what should be the consequences of the failure to label a particular work or the removal of a label?

There should be an escalating chain of consequences starting with a notification of an issue and request for removal with 5 days. If that doesn't occur, fines of increasing punity should accrue AND a database of violators accessible by the public. Fix the issue, name removed from database. Companies that routinely flout the law should have their incorporation revoked.

29. What tools exist or are in development to identify AI-generated material, including by standard-setting bodies? How accurate are these tools? What are their limitations?

Because the quality and contours of GenAI works are changing, the tech to identify it is changing, too, and will become increasingly better as time goes on.

The final questions become technical above my expertise, but Congress does need to step in, and for once, side with people not the corporations, like Google, that want LLMs. I appreciate the chance to express my concerns, and I doubly appreciate the person who has to read and rate these. Hopefully you're a person and not an AI because that would really suck.

