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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)?

If copyright owners had to consent to their creations and works being used in training AI generators, then I am *sure* AI wouldn't be as powerful or useful as its supporters want it to be, because some authors would definitely opt out. First of all, how would these tech companies reach copyright owners, which is *everybody who has ever created media still covered under copyright*? Who would do the reaching out? While it is a bit unreasonable to ask tech companies to do because of the labor it insinuates, I think it is a reasonable request on behalf of copyright owners. AI generators cannot be allowed to just steal the information that people have produced and then create work based on that without getting permission to do so. That would be like writing a paper without the works cited. This gets into presenting a list of works that the AI used to produce their result, which I will explore in question 15.

15. In order to allow copyright owners to determine whether their works have been used, should developers of AI models be required to collect, retain, and disclose records regarding the materials used to train their models? Should creators of training datasets have a similar obligation?

I do believe that AI model developers should be required to record and disclose their sources that they use to train the AI. I do not know how collecting the information used for AI works– whether the developer hand picks things to train it with or if it just lets the AI programming loose to collect all information the internet has to offer. Regardless, it would be considered wrong and even plagiarism if someone wrote an academic paper without giving a references page for many reasons. How can we trust that someone is well informed on their topic? How can we give credit to the people who did prior research to make the present research possible? How do we know that the writer is not directly copying from someone else? These, among other things, are questions we would have if we did not have reference pages. We should not lose this expectation, especially for the sake of a machine, which could be feeding us false or biased information.

This concept of the AI producing biased information is scary– if AI continues to grow in popularity, it will start to be used similar to a search engine where people go to learn about historical facts, current events, culture, etc. If the sources used to train the

AI are not disclosed, how can we be sure that the things AI tells us is not biased or misinformation. The model developer could be uploading training sets to the AI from only one biased perspective, and then the user could fall victim to misinformation or bias. Just like how there have been social media platforms which associate with a certain political perspective, Generative AI systems could have similar impacts *if* we don't require AI model developers to disclose their training materials and sources.

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”? If so, how?

Whether or not the constitution applies to AI is not crystal clear. AI feels like a world away from the one that wrote the constitution; it feels wrong to apply the ideals behind the constitution to AI when the language may still technically give some protections. Article 1, section 8, clause 8 of the U.S. constitution says copyright is to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive right to their respective Writings and Discoveries.” I feel as though the ideas behind this clause is to protect innovation, therefore the *creation* of AI is definitely protected. But is the produced material covered by this clause? I do not think so. The AI system is not a *human* author, therefore their creation cannot be copyrighted. However, the AI system itself *can* be because a human inventor created it.

I feel strongly about the content that AI creates alone being uncopyrightable, but what about content where AI is a derivative work or source? What if it plays a role in inspiring or informing someone who then makes a copyrightable piece of media? At what point is the human's contribution more dominant than the AI's so that their work can be copyrighted? How would we even know how much of something is AI inspired, is there a way for the technology to mark that? If we were to provide partial copyright protection to those who collaborated with AI, we would also need a neutral presence or mechanism that is able to measure how much of a creative product is based off of an AI generation—this would call for more technological advancement. As you can see, this question only leads me to ask more questions, and the answers are so situation-dependent that I wonder how a specific legislation could cover it all. The U.S. constitution sure does not. At the same time, though, AI could produce content that contributes to the progress of science and useful arts. This is entirely based on the user's intentions with the technology, which sends me into a spiral contemplating technological determinism.

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?

In Intellectual Property law, the right of publicity protects celebrities or public figures from someone else using their likeness without their permission to commercially benefit. This concept of “likeness” is so vague, as humans are going to inherently have similarities at some point because of similar cultures, influences, and time periods. However, there are moments where likeness cannot be denied.

For example, Pharrell and Robin Thicke owe the Marvin Gaye estate \$5 million for copying his likeness of “Got To Give It Up” in “Blurred Lines” (Kessler). Admittedly, the two songs are strikingly similar, and it is clear that Pharrell and Thicke were trying to emulate Gaye in their modern hit. These protections only go so far, though. Ed Sheeran was sued by Marvin Gaye’s estate for his 2014 hit “Thinking Out Loud”, as it was said to infringe on Gaye’s song “Let’s Get It On”. Sheeran won this infringement case, as Gaye’s likeness was not being stolen in this scenario, rather Sheeran was using a common chord progression that Gaye also used in his song (Wang).

Regardless of how far-fetched claims of likeness are, it is clear that protecting likeness is important to celebrities and the industry as a whole, even if I don’t agree with it. This begs the question of what level of celebrity status must someone have for their likeness to be prominent enough to replicate? Who is going to protect the ‘likeness’ of a small folk singer in the same way Gaye’s estate protects Marvin? I think that if we are going to even *have* a regulation on likeness (which I think is unnecessary and stifling to cultural development), then the law should protect *everyone*. Of course, because copyright law only protects people who are profiting from their creations, and smaller folk singers aren’t making a lot of money off their music, this law is most useful to the more famous singers who bring it to court with their powerful lawyers.

If people are getting sued for copying likeness when they personally write the content, they should also be held accountable for the content that they command AI to create for them. It is the user’s idea to ask AI to produce something based on someone else, so they should be held accountable for likeness rights infringement. Of course AI produced the actual content, but the AI system doesn’t have the intention to replicate, the individual does. All of this being said, while I don’t think we should even have regulations stopping people from copying others’ likeness, if we were to stop placing regulations on it now with AI, the entire copyright system would be dismantled. We have *been* creating new copyright legislation to account for new creative technology. So as for what form these protections against AI recreating someone’s likeness, I think

copyright should protect it just how it has protected likeness in the past, and hold the user of AI responsible for copyright infringement.

Works Cited

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My perspective on copyright has been highly informed by lectures given by Dr. Aram Sinnreich in his Communication, Copyright and Culture class at American University.