1) If Collage Art could be protected, why not the "Appropriation Ar" of date be treated as a fair use? Over time, protections for these arts were bolstered. This legal recognition as well as the social development prompted an evolution in visual art. The late 20th century witnessed a noticeable shift in artistic expression. For example, contemporary artists started exploring newer forms and techniques, one of the most notable being the art of "Collage." This medium, characterized by the act of "cutting and pasting" different elements onto a canvas, brought about a fascinating intersection of creativity and copyright issues. Renowned artists like Andy Warhol and Richard Prince not only championed this form but also found themselves navigating the complex maze of legal challenges. Both Warhol and Prince found themselves at the epicenter of significant court cases that shaped the interpretation of the fair use doctrine. Still, the question of their works' copyrightability lingers. In Cariou v. Prince, for example, did not say whether collage art is copyrightable. Rather, it highlighted the intricacies of fair use and how transformative use plays a role in determining the infringement of other's copyright. This leaves room for interpretation and indicates that not all collage artworks may enjoy the protection of copyright laws, depending on how they are created and the intention behind their creation. Enter the realm of AI, and the introduction of platforms like Midjourney only adds another layer of complexity to this narrative. Much like ChatGPT generates literature, Midjourney stands as a testament to AI's potential in visual arts. Pre-training from vast datasets of visual elements enables Midjourney to generate art by stitching together diverse visual components, analogous to an artist creating a collage. Just as collage artists assemble disparate pieces to create a unified work, Midjourney amalgamates visual data to produce unique art pieces. The process can be likened to a digital evolution of the "cut and paste" technique. The synthesis of "old" art techniques with "new" forms isn't that novel. But introducing this age-old method into the AI epoch introduces novel quandaries.

2) How about "drip painting"? what is the difference between use a brush than use an AI? Modern artists, very often, embrace abstraction, employing spontaneous techniques that perhaps mirror the unpredictability of AI outputs. Take Jackson Pollock, known for his "drip paintings" for example. Pollock would allow paint to freely drip, splatter, or be thrown onto the canvas, letting the medium's fluid dynamics determine the final image. Here, while Pollock initiates the process, the exact pattern formed by the dripping paint can be unpredictable. Drawing parallels to AI outputs, one could argue that Pollock's role is akin to an "instructor" prompting a brush too. Then why he couldn't prompt an AI? He sets the conditions, but external factors, like the consistency of paint or the canvas angle, shape the artwork. Pollock's emotional state, gestures, and creativity influence the artwork regardless of what tools he used for most of his creation, isn't it? The underlying philosophy behind the Copyright Office's stance is clear: if the expressive, creative facets of a work are machine-decided, they lack the human touch central to copyright protection. Consequently, such materials are not safeguarded by copyright, and any application for registration should expressly disclaim them. This clear delineation aims to uphold the essence of copyright law, which fundamentally rests on recognizing and protecting human creativity. Pollock starts the creation process but didn't really control how every drop of paint landed. Isn't this similar to someone giving a prompt to an AI and letting it create something? In both cases, there's a human, or an author, starting the process, but the exact outcome isn't fully controlled. As AI gets smarter and artists continue to experiment, we must wonder if our current copyright rules are still the right fit.

3) In the ever-evolving landscape of technology and its integration with artistry, generative AI stands as a testament to the blurred lines that now characterize copyright disputes. The introduction of AI into the artistic process has raised more questions than answers, not least of which pertains to the extent and nature of human involvement required for a work to qualify for copyright protection. The U.S. Copyright Office's policy on this matter provides an intriguing point of departure. As delineated in the Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, the Office signals its receptivity to register works that blend human creativity with AI elements, acknowledges AI as a tool within the creative process. The Office articulates that this "policy does not mean that technological tools cannot be part of the creative process." It even encourages and promotes the use of AI "to create their works or to recast, transform, or adapt their expressive authorship" in a manner akin to using Adobe Photoshop.   In 1884, the Supreme Court ventured into the then-emerging realm of photography. It discerned that photograph, rather than being rote reproductions of nature, encapsulated the original, creative essence of the photographer. The Supreme Court declared: "An author…is "he to whom anything owes its origin; originator; maker; one who completes a work of science or literature."…By writings in that clause is meant the literary productions of those authors, and Congress very properly has declared these to include all forms of writing, printing, engraving, etching, &c., by which the ideas in the mind of the author are given visible expression." The Court recognized the Photographer's contribution such as pressed the camera's shutter, chose the precise moment to fix the image and the selection and arrangement of the component visual elements "gave visible form" to his "own original mental conception." The precedent points to two precepts. First, machines do not usurp authorship. Second, the author may delegate the physical embodiment of his or her conception, the execution of the work, to an assistant.   When drawing parallels between the onset of photography 140 years ago and the current advancements in generative AI, the question emerges: what degree of human intervention is requisite for AI-generated content to be copyright-worthy? Have landmark decisions like Feist or Alfred Bell, been reinterpreted for the digital age?

Yet, the operationalization of this stance remains nebulous. An illustrative case in point: an artist's argument for her contributions to and modifications of images, generated by Midjourney did not gain acceptance as the artist wished. While Kris Kashtanova was granted a limited copyright protection for her graphic novel, "Zarya of the Dawn", the AI-derived images were excluded. The implication here seems contrary to the overarching policy, suggesting a paradox: while AI can be a tool, its involvement may, in some circumstances, diminish the perceived creative contributions of the human artist. To navigate this conundrum, it becomes pertinent to revisit foundational case law. The Feist decision underscored that copyright is not an avenue to protect labor but rather to protect creativity. As established, for a work to garner protection under copyright law, it must be original, signifying it was autonomously crafted and exhibits at least a "minimal degree of creativity."   As long as an artist integrates a personal touch and the work embodies "more than a de minimus quantum of creativity," its originality is affirmed.   A work will be denied copyright protection only if it entirely lacks that "creative spark," or if the spark is exceedingly marginal, "so trivial as to be virtually nonexistent." Further clarity is found in the Alfred Bell decision, which illuminated that even works with "merely trivial" variation, potentially involving elements borrowed from the public domain, "may yield sufficiently distinguishable variations" and become copyrightable. It's worth noting the Court's progressive stance on the sequential nature of creation. It dismissed the notion that creative endeavors strictly follow a linear process: from a nascent idea to its tangible realization. Instead, the Court acknowledged the fluidity of

creation, where artists might serendipitously "discover" an unintentional element's aesthetic significance and decide to assimilate it, thereby reshaping their original vision.

Such a dynamic view of creativity brings forth pressing questions in the AI age: Does the "minimal degree of creativity" standard shift when AI enters the mix? The U.S. Copyright Office seems to have two different opinions on AI and creativity. On one side, they treat AI like a tool, similar to a paintbrush or a software program like Adobe Photoshop. So, when an artist uses AI, they should still get credit for the final artwork. However, in the case of "Zarya of the Dawn", they treated the AI more like an independent artist. This viewpoint seems to lean away from recognizing AI as just another tool in the artist's kit, and instead attributes a semblance of independent creativity to AI. So, if an artist used this AI to create something, they couldn't fully claim it as their own. This difference in thinking is confusing. We must decide: Is AI just another tool that artists use? Or is it more like a partner that shares in the creation? We need a clear answer because this will affect how artists use AI I n the future and whether they can claim copyrights on their work.