

**The Battle for the Soul of AI:
How Jack Bogle--the Founder and Former CEO of Vanguard--Would Respond
to Big Tech's Essays on Copyright and AI**

by Dr. Elliot McGucken

<http://emcgucken.com> <http://herosodyssey.com> <http://artsentrepreneurship.com>

Jack Bogle: I mean, I'm perfectly willing to give a high value, for example, to art and poetry and literature. They add value to society. It may not be easy to measure it in a society that measures too much of what's not important. And not enough of what is important. As the sign in Einstein's office says-- "There are some things that count that can't be counted. And some things that can be counted that don't count." *Bogle interviewed by Bill Moyers --* <https://www.pbs.org/moyers/journal/09282007/transcript5.html>



Van Gogh Iceland © Dr. Elliot McGucken

Jack Bogle (founder and former CEO of Vanguard): Homer's *Odyssey*, I hardly need tell you, is the story of a hero's journey, the building of character through overcoming the inevitable reverses of life, and the celebration (in Dr. McGucken's words) of the classic American spirit that bestows on us the right, and demands of us the duty, to take ownership of our own lives. While a different saga, however, the Vanguard story is not without tangential parallels to Homer's timeless classic. So at many levels, "Vanguard: Saga of Heroes" ties my story together with your study of entrepreneurship and technology in today's society. --

<https://boglecenter.net/wp-content/uploads/Vanguard-Saga-of-Heroes-Feb-27-2007.pdf> Remarks by John C. Bogle, Founder, The Vanguard Group Before Dr. Elliot McGucken's Class in Artistic Entrepreneurship and Technology 101 Pepperdine University Malibu, CA February 27, 2007

Warren Buffet: If a statue is ever erected to honor the person who has done the most for American investors, the handsdown choice should be Jack Bogle. For decades, Jack has urged investors to invest in ultra-low-cost index funds. In his crusade, he amassed only a tiny percentage of the wealth that has typically flowed to managers who have promised their investors large rewards while delivering them nothing – or, as in our bet, less than nothing – of added value. . . . In his early years, Jack was frequently mocked by the investment-management industry. Today, however, he has the satisfaction of knowing that he helped millions of investors realize far better returns on their savings than they otherwise would have earned. He is a hero to them and to me."

Jack Bogle: The human soul, as Thomas Aquinas defined it, is the "form of the body," the vital power animating, pervading, and shaping an individual from the moment of conception, drawing all the energies of life into a unity.. In our temporal world, the soul of capitalism is the vital power that has animated, pervaded, and shaped our economic system, drawing all of its energies into a unity. In this sense, it is no overstatement to describe the effort we must make to return the system to its proud roots with these words: the battle to restore the soul of capitalism. --John C. Bogle, *The Battle for The Soul of Capitalism*

As the creator of Vanguard, which is today one of the largest investors (if not the largest overall investor) in various AI efforts, it make sense that the late Jack Bogle's exalted vision for moral capitalism ought inform and guide AI's development. At the conclusion of this essay which encourages everyone to study Bogle's works in far greater depth, I present my own VAN GOGH ICELAND: *Artists Must be Compensated and Credited -- Copyright and AI -- A Response to Meta, Google, Microsoft, Anthropic, Adobe, Andreessen Horowitz, Hugging Face, Stability AI, and Apple et al.*

When I took Jack Bogle (Vanguard's founder and former CEO) on a tour on down the winding Mulholland Highway, I asked him if he felt the false suitors in business ever saw themselves as the false suitors in Homer's *Odyssey*, none of whom could string Odysseus's bow. Jack was keynoting the Hero's Odyssey Arts & Entrepreneurship Festival later that night, where I had invited him to speak on the parallels of the creation of Vanguard and Homer's *Odyssey*, as my class begin each semester by reading Homer's *Odyssey* alongside Bogle's *Battle for the Soul of Capitalism*. "Well Elliot," he said in his epic baritone, "they probably wouldn't, even if they read it." (Watch/read Bogle's speech here: <https://www.youtube.com/watch?v=Irjl8uUZwqo> <https://boglecenter.net/wp-content/uploads/Vanguard-Saga-of-Heroes-Feb-27-2007.pdf>)

When Jack sent me the galley proofs for his 2010 book *Enough: True Measures of Money, Business, and Life*, and asked for suggestions, I sent him two quotes—one from Homer's *Odyssey* and one from Socrates' *Apology*—two of the books I taught alongside Bogle's 2014 *The Battle for the Soul of Capitalism* in my class on art and entrepreneurship. Bogle included both quotes in his book:

"Fair dealing leads to greater profit in the end." –Homer's *Odyssey*

"Virtue does not come from money, but money and every lasting good of man derives from virtue." –Socrates' *Apology*

Such are the simple precepts of Natural Law which I instill in every photograph I create, alongside the Euclidean Golden Ratio. For in addition to offering a prime arena exalting the individual as the lone "man in the arena," fine art nature photography is a prime medium for capturing and exalting Creative Logos—that which AI is utterly incapable of. When viewed through the lens of "fair dealing," and "virtue," the beauty of Constitution's soul shines forth, where the only place the word "Right" appears in the main body of the Constitution is in the "Copyright Clause:"

[the United States Congress shall have power] 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.

So it is that all AI systems (and their CEOs!) ought be trained on the beauty and enlightenment wisdom of Socrates, Homer, Locke, and the Constitution, as sure as Steve Jobs of Apple/Pixar fame stated that he would trade all his technology for an afternoon with Socrates, and Thomas Jefferson noted, "As we advance in life, they all fall off, one by one, until we are left with Virgil and Homer, and perhaps Homer alone."

Bogle's words from the speech he delivered to my class at the Hero's Odyssey Entrepreneurship Festival ring true today as artists battle for their Natural Rights to protect and profit from that which they create. Artists are investors—they are the primary

investors in every piece of art they create, and thus they are the primary owners of said art. Bogle's words thus support the common artist as sure as they support the common investor, and I have emboldened this truth in the parenthetical remarks I've added to Bogle's passage:

Facing Up to the Reality

It must seem obvious that there is an urgent need to face up to these and other failures in the changing world of capitalism. But despite the contentious nature of the issues I've just described—broadly reflecting the triumph of the powerful economic interests of the oligarchs (AI CEOs) of American business and finance over the interests of our nation's last line investors (the artists and creators)—it is remarkable that so little public discourse has been in evidence (all too many believe that somehow big tech has the right to exploit our art). In the investment community, I have seen no defense of the inadequate returns delivered by mutual funds to investors (the inadequate returns delivered by AI systems to artists), nor of our industry's truly bizarre, counterproductive ownership structure (where the artists who create all the wealth own nothing); no attempt by institutions to explain why the rights of ownership that one would think are implicit in holding shares of stock remain largely unexercised (why the Natural Rights of owning one's art are not respected); and no serious criticism of the virtually unrecognized turn away from the once-conventional and pervasive investment strategies that relied on the wisdom of long-term investing, toward strategies that increasingly rely on the folly of short-term speculation (the turn away from the wisdom of licensing art).

If *The Battle for the Soul of Capitalism* helps to open the door to the introspection—and then corrective action—by our corporate and financial leaders that is so long overdue, perhaps the needed changes will be hastened. This process, I conclude, must begin with a return to the original values of capitalism, to that virtuous circle of integrity—"trusting and being trusted." When ethical values go out the window and service to those whom we are duty-bound to serve is superseded by service to self, the whole idea of the capitalism that has been a moving force in the creation of our society's abundance is soured. In the era that lies ahead, the trusted businessman, the prudent fiduciary, and the honest steward must again be the paradigms of our great American enterprises. I know it won't be easy, but if we all work long enough and hard enough at the task, we can build, out of our long-gone ownership society and our failed agency society, a new "fiduciary society," one in which the citizen-investors (the artists) of America will at last receive the fair shake they

have always deserved from our corporations, our investment system, and our mutual fund industry. ---- <https://boglecenter.net/wp-content/uploads/Vanguard-Saga-of-Heroes-Feb-27-2007.pdf> Remarks by John C. Bogle, Founder, The Vanguard Group Before Dr. Elliot McGucken's Class in Artistic Entrepreneurship and Technology 101 Pepperdine University Malibu, CA February 27, 2007

After Clint Eastwood completes a job for a gang early on in Sergio Leone's masterful film *A Fistful of Dollars*, one of the gang members asks their leader, "Instead of paying him (Eastwood), why don't we just shoot him?" Sergio Leone (like Martin Scorsese) stated that Homer was his greatest mentor, as Homer was the original, and supreme, author of the Western. Dante referred to Homer as the master poet, while Aristotle credited him as being the greatest Epic Poet. So it is, that in the Homeric spirit, the gangsters are unsuccessful in offing Clint Eastwood, and he ultimately prevails in the end, as the Natural Law of Locke and Madison, of Moses and Homer, dictates that artists must be credited and compensated for their work.

As sure as the names of Dante, Moses, and Homer are all inscribed in the ceiling of the Library of Congress's Jefferson Building, I have been using my good friends to make the simple case for Natural Rights, Human Rights, and Copyright. And it should be noted that the founder of Vanguard—one the largest investors in so many modern AI operations—Jack Bogle—would agree with Homer, Dante, and Moses, as he wrote in his book *Don't Count on It*:

Vanguard: Saga of Heroes (Chapter 23) presents a very different interpretation than you might expect from its title. This chapter is based on a lecture I presented to Pepperdine University (CA) students, at the request of Professor Elliot McGucken, as part of his course The Hero's Odyssey in Arts Entrepreneurship & Technology 101. "Dr. E" relies heavily upon such classics as Homer's *Odyssey* and Dante's *Inferno*, and honors me by including with these classics my own *The Battle for The Soul of Capitalism*. This essay focuses on Vanguard's odyssey, a voyage punctuated with challenges, narrow escapes, and ultimate fulfillment. I conclude by urging introspection upon our financial leaders, an idea that failed to get much traction back in 2007 when it might have helped. But these leaders were simply making too much money, taking too much risk, and showing too little concern about the crises then building. . . -p. 436: "It's no mean task to measure up to the high appraisal of my career that has been so generously expressed by Dr. Elliot McGucken. That he has, remarkably, placed my 2005 book, *The Battle for the Soul of Capitalism*, on the same reading list as *The Odyssey*—let alone the same planet!—adds even more to my burden in meeting the expectations of those who

are aware of this background. . .” --Vanguard, *Saga of Heroes*, p. 469,
Don't Count on It, 2010, John Wiley & Sons



Rising Storm Death Valley National Park, Dr. Elliot McGucken

Fine art landscape, nature, and wildlife photography is the pure, refined gold that AI systems require. For we nature photographers learn firsthand from Rembrandt's and Dante's prime master—Nature. Without making copies of our fine art, the billionaire's AI systems are as useless as they are soulless. The better the art which the AI is trained on, the better the potential output. And so it is that those AI systems which honor the simple precepts of Copyright—those which honor the Constitution, Natural Law, and simple commonsense decency exalted by Homer, Moses, Bogle, and Dante—those AI systems

which properly and politely secure rights to use our fine art will ultimately prevail. Those AI systems which seek artist consent and compensate artists as the artist requires will triumph. Those AI systems which respect the artists will be respected.

AI systems are inherently incapable of ascending beyond Plato's cave and seeing the light beyond the opinions of those "experts" who have merely been commenting on the shadows on the cave's walls, believing themselves privy to the higher Truth. AI systems are incapable of Creative Logos or that individualistic, Galilean Spark of Reason upon which all exalted Science is founded, as Galileo noted, "for in the sciences the authority of thousands of opinions is not worth as much as one tiny spark of reason in an individual man."

Art exalts immortal ideals. Art offers a hedge against the foolish crowd and ignorant CEO/tyrant. Art is as priceless as love and it too is oft made and given freely. But just as it is naturally illegal to take love, it is against the law to steal art. Art offers the artist an infinite space to set their soul free for all eternity. Art is where Beethoven triumphed over his increasing deafness, and where Van Gogh and Herman Melville courageously and selflessly laid out the vast wealth of their geniuses for future generations to enjoy, as they were tragically ahead of their times and largely ignored and even derided by their peers. When Beethoven learned he was growing deaf, he wrote "I will seize fate by the throat; it shall certainly never wholly overcome me," and then went on to compose his revolutionary third symphony Eroica (The heroic symphony) which revolutionized and exalted classical music. As AI systems are incapable of the horror a musician must feel upon realizing they are becoming deaf, and as they can only produce things based on all that has come before, AI systems are incapable of revolutions and thus too, AI is incapable of renaissances.

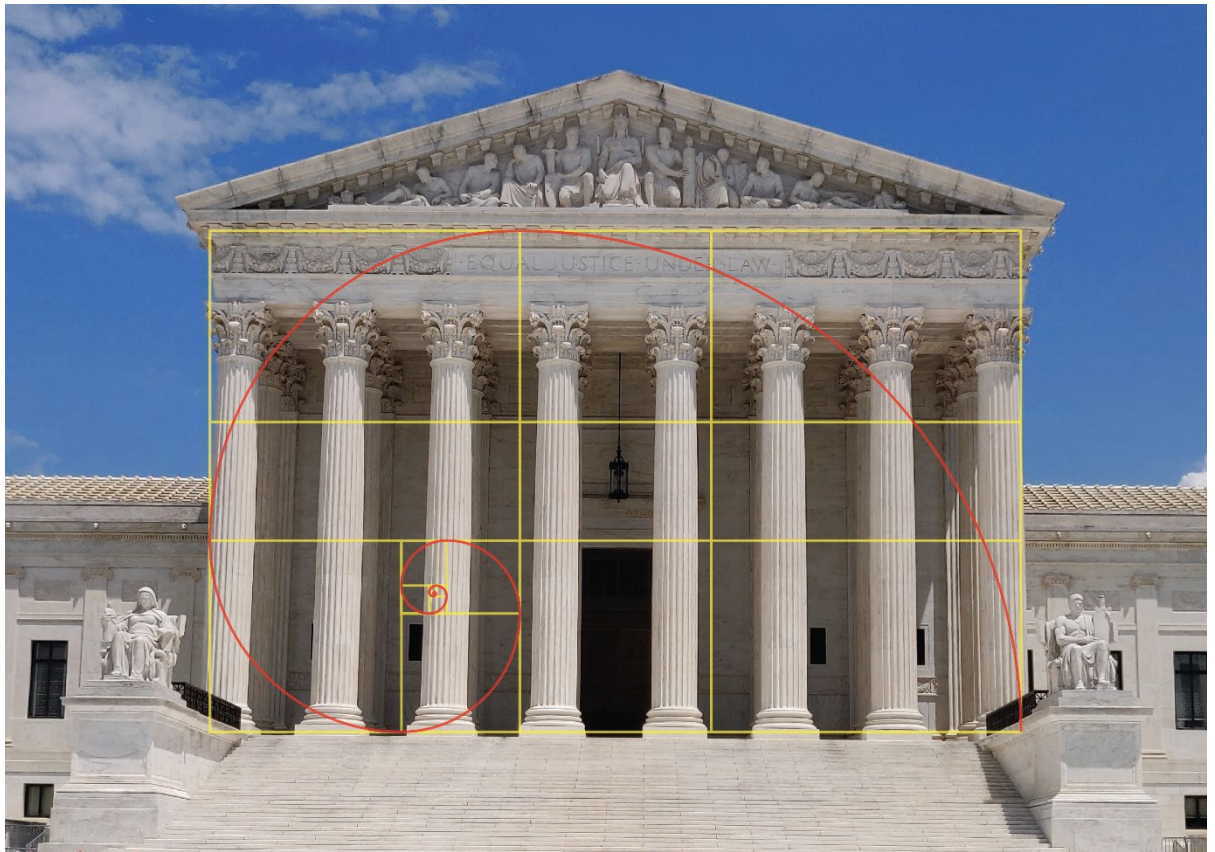
Van Gogh's painting were oft considered both odd and worthless for most of his life, and in 1990 one of his paintings fetched \$83 million. Today the value of his life's work is estimated to around ten billion dollars. There's a wonderful book titled, *Van Gogh and the Artists He Loved*, and it makes one wonder if there will ever be a book *AI and the Artists it Loved*. Will AI ever experience depression and rejection? Will AI ever create art to counter the darkness? Will AI ever cut off its own ear as Van Gogh did?

While Odysseus strove to save his men and bring them on home, ultimately they perished as they dined on the cattle of Helios—the sun God—the property of the light beyond Plato's Cave that exalts all art. So too did Moses return on down from Mt. Sinai with the Ten Commandments only to find his people worshipping the Golden Calf—the physical gold instead of the higher ideals also given by that light beyond Plato's Cave—a lightning bolt in the case of Moses. In both cases the people ignored the higher ideals in favor of the baser appetites. Artists are those who forever break convention's chains to escape the shadows of the cave and see the truth of the light beyond the entrance, and their art is that which reminds us of the higher ideals exalting Natural Rights and Property Rights and Copyright—the Principles by which civilization endures and prospers. Art

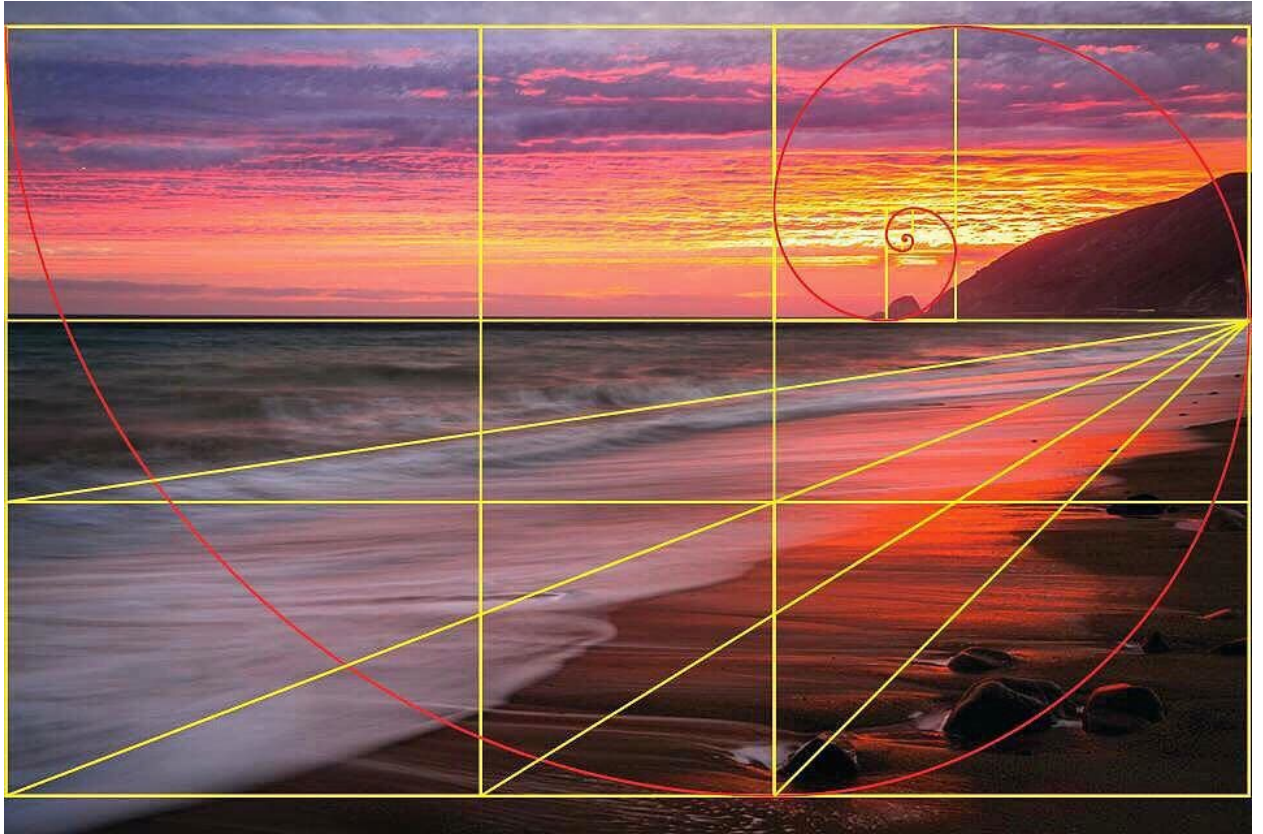
exalts the same Euclidean Truths by which Locke and Jefferson founded a free society based “self-evident” axioms:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness (Property in the words of Locke).--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

The self-evident, Euclidean truth that “all are created equal,” is enshrined in the Supreme Court’s Frieze, as EQUAL JUSTICE UNDER LAW, as sure as the Supreme Court was designed in accordance to the Golden Ratio celebrated throughout Euclid’s *Elements* as well as classical art:



So too does the golden ratio oft inform my own compositions, such as in this Malibu Sunset which raised \$8,000 for The Who’s/Eddie Vedder’s Teen Cancer Foundation/UCLA Hospitals:



♣ > Dr. E's Epic "Golden Ratio" Fine Art raises \$8,000 for Teen Cancer via the Golden Ratio!!

40"x60" Fine Art Print raises \$8,000 for the UCLA The Who's (Roger Daltrey/Peter Townshend) Teen Cancer Program



And so it is that my photography celebrates the US Constitution in celebrating the same eternal ideals of symmetry and beauty by which it was penned.

All too many contemporary billionaires—today's monarchs and churches of technology—believe themselves capable of trumping Natural Rights in seizing the vast wealth inherent in the indie artists' very own fine art collections, which they purchased via vast investments in high-end-equipment married to the blood, sweat, and tears inherent in every voyage out to capture and preserve nature's divine beauty. All too many contemporary billionaires—often the Homeric false suitors to Bogle's Vanguard"—believe themselves to own the art of the poet-warriors on the front lines. Today I call out those "AI" CEOs, as sure as the poet-warrior Achilles called out his commander Agamemnon, who, instead of earning his prizes on the front lines of creative battle, merely seized them from poet warriors such as Achilles, which caused his Greek army to suffer grave losses.

The pursuit of beauty drives us to become "skilled in all ways of contending" like Odysseus. We master the art of driving rugged offroad vehicles, and when they can go no further, we traverse countless backcountry miles with heavy quivers of lenses on our backs, while carrying maps and compasses, rain gear, water for days, and bear spray. We brave the elements to get to "places just when God's ready to have somebody click the shutter," in the words of the legendary photographer Ansel Adams, and so often it is that those best moments arise in extreme conditions, such as a flood in Death Valley, a monsoon

thunderstorm over the Grand Canyon, a severe winter storm in Yosemite, or the Northern Lights on a blisteringly cold Icelandic night. In the same way an MMA fighter masters boxing, wrestling, BJJ, Muy Thai, all built upon a foundation of a marathon-runner's cardio, we must master a cornucopia of cameras, lenses, and finishing techniques, all to capture the higher, archetypal spirit of a Death Valley dust storm and the wary eyes and formidable fangs of the wolf, each of which requires entirely different lenses, cameras, wardrobes, mindsets, and endurance in opposing extreme conditions.

No other art form is as physical as fine art nature photography. Ansel Adams stated that landscape photography was the supreme test, and often the supreme disappointment of the photographer, as to render real that which we pre-visualize in our mind's eye oft requires numerous trips into the wilderness, where both Moses and Jesus roamed to receive their revelations. When someone cherry-picks a photograph, right-clicks and downloads it to sell as their own, what they never see is the dozens of voyages and thousands of shutter-clicks it took to get that one image capturing the moment before a fierce dust storm enveloped the scene, with fifty-mile-an-hour winds sand-blasting my skin and making it difficult to breathe. When the AI CEO clicks a button to sell their stock-options, they never have to worry about the long, arduous walk back over the infinite dunes, or navigating through a blinding snowstorm that came out of nowhere and where visibility has been reduced to a few feet, necessitating a compass for navigation. And neither the CEO nor the infringer will ever know the supreme honor of suffering for art—the glory of walking the infinite backcountry miles to learn the landscape's deeper secrets, and now and then clicking the shutter to immortalize the rare and ephemeral beauty of those moments whence all the elements align.

As Achilles noted in *The Iliad*, we artists receive our honor from Zeus, and there is no force nor AI CEO that can take that honor away from us. And Homer taught that if the poet-warrior's honorable act of creation wasn't honored—if the risk-taker and fighter weren't rewarded—the Greek army—the society and civilization—would suffer losses. And so it is, that as Homer taught and Locke, Paine, Jefferson, Madison, and Washington all recognized, civilization rests upon Honor being Honored. Artists must be compensated and credited, and so it is that the Constitution was penned to recognize our Natural Right to own the Exclusive Rights to our Creations.



A successful wildlife photograph is equal to at least a few popular books on modern stoicism, as the photograph tells the story of enduring hours in the Montana winter, trying and failing time and anon, and ultimately, via that pure persistence which alone unlocks luck's door, immortalizing a fleeting moment as a work of art, and setting a piece of our souls free for all eternity. So too does fine art photography "Justify the ways of God to man," in Milton's words, while exalting the same tenets of the Constitution that guarantees the Creator's Natural Rights.

From Odysseus slaying the one-eyed giant Cyclopes who was eating his men, to Moses leading his people out of slavery and into freedom, to Achilles quitting the Greek army when his commander/CEO seizes Achilles' rightful prize for himself, to Odysseus reclaiming his home from the false suitors who are laying his estate to waste, epic poetry

and mythology are filled with stories centered about Natural Rights. From reading Big Tech's essays on AI and Copyright, it seems that they have forgotten how the classical stories end. It seems they never studied the Greats and learned (ingested) the moral lessons found at the center and circumference of the exalted texts guiding all prosperous and free civilizations.

Even if the "AI" CEOs had never read Homer's *Iliad* nor *Odyssey*, nor Moses's *Exodus*, they could have read the concise *Constitution*, *Declaration of Independence*, and the words in the frieze above the Supreme Court reading "EUQAL JUSTICE UNDER LAW," all of which vehemently support Artists' Rights. The Founding Fathers did not create the noble ideals from thin air, but rather they extracted the lessons from the Greats, with Thomas Jefferson noting in his later years, "As we advance in life, they all fall off, one by one, until we are left with Virgil and Homer, and perhaps Homer alone." The AI CEOs could greatly enhance their essay by citing liberty's timeless ideals:

The Constitution: [the United States Congress shall have power] 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.

The Declaration of Independence: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

Regarding the "unalienable Rights," the Creator endowed us all with, when Odysseus tells the Cyclopes that the Cyclopes is going against Zeus's Law by eating Odysseus's men, the Cyclopes scoffs at Odysseus, stating "I care not for your silly God." When Odysseus blinds the Cyclopes with a makeshift spear after getting him drunk on gifts of wine, Odysseus asks the Cyclopes, "What do you think of my God now?" The Cyclopes is the gargantuan bureaucracy which by and by loses its stereo vision and is only able to see the bottom line and not the higher ideals, at which point it begins consuming the life around it.

The great director of Westerns Sergio Leone stated that Homer was the original (and the greatest) writer of Westerns, with Ajax, Hector, and Achilles being the original cowboys. So it is that all his films exalted the moral premise of the common man's Natural Rights. The lighting bolts of Zeus's justice were exalted by Clint Eastwood's .45 Revolver, as Eastwood's "man with no name," fought for the commonsense ideals, time and again ridding the towns of the false suitors, reuniting the families, and doling out the classical, Biblical Justice celebrated in story from Homer and Moses on down. So too does every Hollywood Blockbuster tell the same story of the hero serving honor and the higher ideals over the bottom line. So it is that the Empire's Death Star, the Matrix, Sauron, and

Voldemort are all defeated via those serving eternal ideals on epic hero's odysseys. And so it is that Eastwood's .45 Revolver is saluted in my brands 45EPIC and 45SURF.

From reading Big Tech's essays on copyright and AI, one gets the sense that were Andreessen and Altman to write a movie, the Empire's Death Star would survive with Darth Vader the supreme ruler freely seizing the art from every artist to build a bigger Death Star. Suaron's manufactured, soulless AI Orcs would replace artists thusly destroying the arts, as the more AI art is trained on AI art, the more it degrades. Voldemort would freely seize all the magic of the creators' art to serve his black magic regime, and the Matrix's AI Agent Smiths/MBAs would triumph over Neo, Trinity, and Morpheus, whence all artists would thenceforth serve as mere batteries powering the machines' Matrix. Needless to say, these films would flop at the , as so many are flopping these days, for the exalted, Homeric, Mosaic soul hath been replaced by the AI CEOs' whims. And in the first lines of the *Iliad*, Homer warns us of this dire fate when leaders fail to honor moral rights, as Homer shows that when the CEO/commander of the Greek army Agamemnon claims Achille's prize for himself, the poet warrior will quit, leading to devastating losses for the Greeks, as "The Will of Zeus was Done." Likewise, when the managerial class seizes the fruits of the poet-warrior artists' wealth for themselves, the overall society will fail. Should the "AI" CEOs steal the vast wealth of the artists' soulful work, and use it to create an army of soulless Orcs to replace the artists, culture and civilization will suffer greatly.

So it is that artists must be compensated, as set forth by the Constitution, Epic Poetry, Mosaic Law (Thou Shalt not Steal), and Mythology. So it is that artists must be credited, as set forth by the Constitution, Mosaic Law, and Epic Poetry and Mythology. So it is that consent must be sought from artists, as set forth by the Constitution, Mosaic Law, and Epic Poetry and Mythology. So it is that Natural Rights must be honored in any civil and prosperous society, as set forth by the Constitution, Mosaic Law, and Epic Poetry and Mythology.

"The risk-taker ought get the reward," is a most foundational premise of moral capitalism, and thus artists ought reap the fruits of their labor—a simple tenet which the Constitution celebrates and which Bogle's Vanguard exalted. Artists are the small, common investor whom Bogle served. As Vanguard is a large or even majority shareholder in numerous "AI" efforts, one would hope that the CEOs would study Jack's simple, commonsense business philosophy that "the risk-taker" ought get the reward, but this is not immediately apparent. Perhaps the CEOs would be wise to read up on Homer's *Odyssey*, where they'll see Odysseus teaching, "Fair dealing leads to greater profit in the end," to the false suitors living in Odysseus's home.

In a speech delivered at the Princeton Varsity Club titled *Aspiring to Build a Better Financial World Remarks* by John C. Bogle Founder and former chief executive of the Vanguard Group (<https://boglecenter.net/wp-content/uploads/Princeton-4-30-09.pdf>), Jack Bogle kindly saluted the class I was teaching:

. . . Elliot McGucken, Princeton Class of 1991, has lifted my spirits on the culture of the humanist. Dr. McGucken received a B.A. in Physics from Princeton, and earned a Ph.D. in physics at University North Carolina in Chapel Hill. Now teaching at Pepperdine University, he has created a business school course entitled “Artistic Entrepreneurship and Technology,” linking today’s Information Age to the great values of Western Civilization. His required reading list includes Homer’s *Odyssey*, and Dante’s *Inferno*.

Dante, as a master poet, naturally had a special fondness for fellow artists, and he placed those who were “violent against art” in the seventh circle of Hell. There are nine levels. Fine art nature photography is a celebration of Dante, as sure as Dante stipulated, “Art, as far as it is able, follows nature, as a pupil imitates his master.”

Fine art nature photography allows us to celebrate Locke’s notions of copyright, as we come to own the “The labour of our body, and the work of our hands,” married to our soul’s unique vision and creativity:

Sect. 27. Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others. —Locke, CHAPTER. V., The Second Treatise of Government

The great director Sergio Leone, who launched Clint Eastwood as an international star in his *The Good, the Bad, and the Ugly* trilogy, stated, “Probably the greatest writer of westerns was Homer.” The eminent Martin Scorsese (*The Wolf of Wall Street*, *Good Fellas*, *The Untouchables*) opined in *Fast Company*, “I’m concerned about a culture where everything is immediate and then discarded,” he says. “. . . I just read her (his niece Francesca) a children’s version of *The Iliad*. Thomas Jefferson, who knew a thing or two about the poetry of liberty, penned, “as we advance in life these things fall off one by one , and I suspect we are left with only Homer and Virgil, perhaps with only Homer alone.” On March 6th, 1887, *The Philadelphia Press* shared a story about a young, “smooth-shaved” Abraham Lincoln from around thirty years earlier in 1857: (Lincoln) was reading Homer’s *Iliad*, in a translation, of course. Lincoln held the book out at arm’s length after a word or

two had passed, when he laughed and said: “I have made up my mind that I have got to read Homer’s *Iliad*,” and the quaint look which has become historical spread over his face.” You know a man might as well be out of the world as not read Homer’s *Iliad*.”

Aristotle wrote, “As, in the serious style, Homer is pre-eminent among poets,” and our good friend Dante described Homer as “Omero poeta sovrano.”—Homer, the sovereign poet.

Bogle continued:

Believe it or not, “Dr. E.” discovered my 2005 book, *The Battle for the Soul of Capitalism* when he was browsing in a bookstore. It formed one of three foundations for reading in his course. When he told me that, of course I was thrilled. (Heck, truth told, astonished!) But hear the concern McGucken expresses as he explains what is happening to Humanistic education, in words far better than my own:

“When I first embarked on this venture four years ago, I had thought that common sense would be a bit more common, and that Homer and Bogle would naturally and immediately prevail in the academy with nary a battle. Well, amongst the students a vast market exists for the words that speak to the immortal sensibilities of their souls (and thus time is on our side!), but the modern university’s bureaucracy has evolved to oppose classical wisdom, as has Wall Street and our government, which all too often see more profit in trying to purchase virtue and enduring wealth via mere money; rather than focusing first on virtue and ‘doing the right thing,’ reminding us of Socrates belief that we should ‘care about the greatest improvement of the soul . . . 13 virtue is not given by money, but from virtue comes money and every other good of man.’ During each faculty meeting, he continues, I need to justify why I am teaching Homer and Socrates in a business class of all things. I have been tempted to ask the question, ‘Well, can you find anything of greater and more-enduring value?’ But I have refrained . . . despite the daily news which screams at us regarding the epic failures of the current system and all that the soulless MBA curriculum hath wrought, the contemporary academy yet refuses to see, because the MBA is a license to partake in the \$500 billion of innovation-free, annual wealth-transfer [to the financial sector] that compromises, erodes, and opposes capitalism’s moral premises. The risk taker ought to get the reward, and the primary purpose of an institution ought to be to serve—not to tempt and take.”

In many ways my Fine Art Photography is a hedge against the postmodern, bottom-line focused, Natural-Law-denying ethos. Fine Art Photography offers a realm where

honor can yet be pursued via noble, relentless action in Nature's yet untamed elements, and where Gold can be mined via one's very own blood, sweat, and tears, as opposed to strip-mining/scraping the internet. Fine Art Photography affords me an opportunity to celebrate the Constitution, which so many modern CEOs scoff at and seek to circumvent to as to enrich themselves at the honorable artists' expense.

The Golden Ratio is a classical compositional technique that is naturally found throughout nature and all living forms, acutely celebrated in Botticelli's *Venus*, Michelangelo's *David*, and the Sistine Chapel.

Bogle continues:

Quoting from *Who Killed Homer*, McGucken notes that "This ignorance of Greek wisdom should be of crucial interest to every American. The Greeks bequeathed us constitutional government, individual rights, freedom of expression, an open economy, civilian control of the military, separation of religious and political authority, private property, free scientific inquiry and open dissent. But it is foolish—and dangerous—to embrace these conventions . . . without understanding that the Greeks also insisted that such energy was to be monitored and restrained by a host of cultural protocols that have nearly disappeared: civic responsibility, philanthropy, a world view that is rather absolute, a brief that life is not nice, but tragic and ephemeral . . . an entire way of looking at the world, a way diametrically opposite to the new gods that now drive America: therapeutics, moral relativism, blind allegiance to progress and the glorification of material culture."

So you can see why Dr. E and I get along so well! We have reached common ground in loving the classics and in seeking the triumph of virtue and ethics—and even fiduciary duty!—over the vanishing values of the day. It is time to accept our responsibility to reverse the recent triumph of unfettered business conduct, and fight to restore the professional conduct that once permeated our society.



In a speech delivered at the Princeton Varsity Club, Jack kindly saluted the class I was teaching:

. . . Elliot McGucken, Princeton Class of 1991, has lifted my spirits on the culture of the humanist. Dr. McGucken received a B.A. in Physics from Princeton, and earned a Ph.D. in physics at University North Carolina in Chapel Hill. Now teaching at Pepperdine University, he has created a business school course entitled “Artistic Entrepreneurship and Technology,” linking today’s Information Age to the great values of Western Civilization. His required reading list includes Homer’s *Odyssey*, and Dante’s *Inferno*.

Dante, as a master poet, naturally had a special fondness for fellow artists, and he placed those who were “violent against art” in the seventh circle of Hell. There are nine levels. Fine art landscape photography is a celebration of Dante.

Fine art nature photography allows us to celebrate Locke’s notions of copyright, as we come to own the “The labour of our body, and the work of our hands,” married to our soul’s unique vision and creativity :

Sect. 27. Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others. —Locke, CHAPTER. V., The Second Treatise of Government

Bogle continues:

Believe it or not, “Dr. E.” discovered my 2005 book, *The Battle for the Soul of Capitalism* when he was browsing in a bookstore. It formed one of three foundations for reading in his course. When he told me that, of course I was thrilled. (Heck, truth told, astonished!) But hear the concern McGucken expresses as he explains what is happening to Humanistic education, in words far better than my own:

“When I first embarked on this venture four years ago, I had thought that common sense would be a bit more common, and that Homer and Bogle would naturally and immediately prevail in the academy with nary a battle. Well, amongst the students a vast market exists for the words that speak to the immortal sensibilities of their souls (and thus time is on our side!), but the modern university's bureaucracy has evolved to oppose classical wisdom, as has Wall Street and our government, which all too often see more profit in trying to purchase virtue and enduring wealth via mere money; rather than focusing first on virtue and ‘doing the right thing,’ reminding us of Socrates belief that we should ‘care about the greatest improvement of the soul . . . 13 virtue is not given by money, but from virtue comes money and every other good of man.’ During each faculty meeting, he continues, I need to justify why I am teaching Homer and Socrates in a business class of all things. I have been tempted to ask the question, ‘Well, can you find anything of greater and more-enduring value?’ But I have refrained . . . despite the daily news which screams at us regarding the epic failures of the current system and all that the soulless MBA curriculum hath wrought, the contemporary academy yet refuses to see, because the MBA is a license to partake in the \$500 billion of innovation-free, annual wealth-transfer [to the financial sector] that compromises, erodes, and opposes capitalism's moral premises. The risk taker ought to get the reward, and the primary purpose of an institution ought to be to serve—not to tempt and take.”

In many ways my Fine Art Photography is a hedge against the modern, bottom-line focused, business models which scoff at artists’ rights and Natural Rights. Fine Art Photography offers a realm where honor can yet be pursued via action—via blood, sweat, and tears—via tireless, relentless, *action*. Bogle continues:

Quoting from *Who Killed Homer*, McGucken notes that “This ignorance of Greek wisdom should be of crucial interest to every American. The Greeks bequeathed us constitutional government, individual rights, freedom of expression, an open economy, civilian control of the military, separation of religious and political authority, private property, free scientific inquiry and open dissent. But it is foolish—and dangerous—to embrace these conventions . . . without understanding that the Greeks also insisted that such energy was to be monitored and restrained by a host of cultural protocols that have nearly disappeared: civic responsibility, philanthropy, a world view that is rather absolute, a brief that life is not nice, but tragic and ephemeral . . . an entire way of looking at the world, a way diametrically opposite to the new gods that now drive America:

therapeutics, moral relativism, blind allegiance to progress and the glorification of material culture.”

So you can see why Dr. E and I get along so well! We have reached common ground in loving the classics and in seeking the triumph of virtue and ethics—and even fiduciary duty!— over the vanishing values of the day. It is time to accept our responsibility to reverse the recent triumph of unfettered business conduct, and fight to restore the professional conduct that once permeated our society.

I had opened each semester of my class *The Hero's Journey in Arts Entrepreneurship & Technology* by having the students read Jack Bogle's *Battle for the Soul of Capitalism* alongside Homer's *Odyssey*, as both recounted similar stories about a protagonist trying to save his men, his home, and his country. And as “AI” takes images from artists without compensation, credit, or consent, we again find ourselves battling for the soul of capitalism against the one-eyed Cyclops which sees not the higher ideals, but only the bottom line.

The greatest innovations in AI oft seem innovations in the use of language. One sees hundreds, if not thousands, proclaiming that AI “learns just like human artists.” This strongly suggests that the developers of AI have never themselves learned like a human or ever been inspired or moved to tears by art. Were true that “AI learns just like humans,” I would have seen the “AI” robots, or at least their developers, out in the field, learning from the ultimate master—Nature.

Rembrandt: “Choose only one master - Nature.”

Dante: Art, as far as it is able, follows nature, as a pupil imitates his master.

Leonardo Da Vinci: Do not imitate one another's style. If you do, so far as your art is concerned you will be called a grandson, rather than the son of Nature.

AI does not go into nature to learn from the Masters, but instead it copies our photographs of nature, and ignores Leonardo da Vinci in imitating our styles.

Virtue has ever been defined as the pursuit of excellence and moral service, and I love fine art photography in that it affords me the opportunity to pursue virtue. Fine art photography is a hedge against all the AI hype, as AI is unable to pursue excellence, it can only copy.

James Madison wrote in *Federalist #43*:

THE FOURTH class comprises the following miscellaneous powers: 1. A power “to promote the progress of science and useful arts, by securing, for a limited time, to authors and inventors, the exclusive right to their respective writings and discoveries. “The utility of this power will scarcely be questioned. The copyright of authors has been solemnly adjudged, in Great Britain, to be a right of common law. The right to useful inventions seems with equal reason to belong to the inventors.

John Locke laid the foundations for such noble precepts underlying intellectual property, writing:

The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions... (and) when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another. John Locke, [Two Treatises of Government](#), ed. Thomas Hollis (London: A. Millar et al., 1764). 12/16/2019.

Nature photography is a most unique art form in that it combines the physical with the artistic. No other art demands that one first humble themselves before the natural elements--both physically and mentally--before venturing forth into those elements to create. Many great artists have credited nature as being the ultimate teacher, with Rembrandt stating, “Choose only one master - Nature.”

Thus, by its very nature, nature photography is perhaps one of the highest art forms, as in order to truly exalt it, one must directly participate in the natural landscape and become one with it. One must become one with Rembrandt's “one master”—*nature*—first in mind by assessing the wind, waves, and weather (and sometimes the volcanic elements!), and then in body by diving into the rugged, elemental beauty and traversing the miles by land, air, and sea, oft enduring physical and mental fatigue so as to get “the shot” which Ansel Adams taught us to previsualize in our mind's eye. We are but guests in Nature's grand studio, and our schedule is dictated by both its immutable periodicities and fantastical and even ferocious whimsies, thusly demanding an enduring patience balanced with the ability to suddenly turn on a dime and react in a microsecond, lest the shot we waited hours and even days for eludes us forever. This classic struggle of “human versus nature,” from Homer's *Odyssey* on down, is the crucible wherein the fine art of landscape and nature photography is most naturally forged and exalted as epic poetry and mythology. And as sure as Nature educated Homer and Homer educated Greece, as sure as Einstein stated, “Look deep into nature, and then you will understand everything better,” as

sure as Moses and Jesus and Thoreau all went into the wilderness to receive their divine revelations, so it is that Nature and Natural Law stand ready to guide the moral development of AI.

Perhaps it should come as no surprise that nature photography is a most foundational art of primal origins, as photography literally means “light writing,” and both science and religion agree that it all likely began in light—with a “Big Bang” of light or with the simple sentiment, “Let there be light.” The great psychologist and mythologist Carl Jung noted, “When the great night comes, everything takes on a note of deep dejection, and every soul is seized by an inexpressible longing for light.” And so our humble task as nature photographers becomes to *serve* with light—with all the natural truth it has ever carried, and the beauty that it is heir to

As a picture is “worth a thousand words,” we photographers write our biographies and novels a thousand words at a time. Aristotle noted that “story is the soul of a work,” and the stories our photographs tell over time by and by exalt the soul of nature in the record of our very own odysseys, whence all can see both where we stood and what we stood for. Socrates noted that the soul alone is immortal, and as that original, relentless poet-warrior Achilles demonstrated throughout the *Iliad*, we artists are drawn towards the archetypal, immutable eternities of the higher forms, as we are driven to set our spirits free via noble *action*. And so we go without sleep for over twenty-four hours while walking over twenty miles with all our gear, all to render the fleeting beauty of an erupting volcano permanent, for simply put, it is the honorable thing to do.

Do not take my word for it that art is born of nature, but listen to those greats who have noted thusly throughout history:

Michelangelo: Nature did all things well.

Cicero: Art is born of the observation and investigation of nature.

Paul Cezanne: Art is a harmony parallel with nature.

Vincent Van Gogh: Everyone who works with love and intelligence finds in the very sincerity of his love for nature and art a kind of armor against the opinions of other people.

Dante: Art, as far as it is able, follows nature, as a pupil imitates his master.

Leonardo Da Vinci: Do not imitate one another’s style. If you do, so far as your art is concerned you will be called a grandson, rather than the son of Nature.

Frank Lloyd Wright: Study nature, love nature, stay close to nature. It will never fail you.

Albert Einstein: Look deep into nature, and then you will understand everything better.

Henri Matisse: An artist must possess Nature. He must identify himself with her rhythm, by efforts that will prepare the mastery which will later enable him to express himself in his own language.

Georgia O'Keeffe: I decided that if I could paint that flower in a huge scale, you could not ignore its beauty.

Auguste Rodin: Art is contemplation. It is the pleasure of the mind which searches into nature and which there divines the spirit of which nature herself is animated.

Rembrandt: Choose only one master - Nature.

Leonardo da Vinci: "He who despises painting has no love for the philosophy in nature."

And so it is that nature photographers have ever been the poet-warriors on the front lines of the artistic battle to exalt and inspire with that truth that is beauty, and that beauty which is truth. In this age of AI which must first take in order to make, we must be sure to remember, now more than ever, all those who begin by giving freely, powered and propelled by their love and passion to learn firsthand from art's greatest master—Nature—before returning on home with the elixir—to teach, inspire, and serve others.

And so it is that we artists humbly carry on in the Spirit of Bogle's *Battle for the Soul of Capitalism*. The late Jack Bogle closed his speech before my class with the call to join him on yet one more Odyssey:

But even as I ask you, as I did my grandchildren in the dedication to Battle, to enlist in the mission of building a better world, I remain eager for the excitement of the chase; the idealism of a cause worth betting one's life on; and the joy of honoring the values of the past as the key to a brilliant future. So dream your own dreams, but act on them, too. Action, always action, is required on the ever-dangerous odyssey that each of our lives must follow. Be good human beings. Respect tradition and study the great thinkers of our heritage. And not only hear me, but reflect, if you will, on what I've said this evening.

I close now, with some words from Tennyson's *Ulysses* (the Greek Odysseus, rendered in Latin) that may explain to you, far better than could any words of my own, the exciting adventures I've enjoyed, the conflicting emotions I've endured, and the single-minded determination on which I have reflected this evening, as I await with eager anticipation the still-unwritten final chapters of my long career. *Ulysses* begins by reflecting on his odyssey:

I cannot rest from travel: I will drink
Life to the lees: All times I have enjoy'd
Greatly, have suffer'd greatly, both with those
That loved me, and alone. I am become a name;
For always roaming with a hungry heart
Much have I seen and known; cities of men
And manners, climates, councils, governments,
Myself not least, but honour'd of them all;
And drunk delight of battle with my peers.
Then he considers what may lie ahead:
I am part of all that I have met.
How dull it is to pause, to make an end,
To rust unburnish'd, not to shine in use!
As tho' to breathe were life! Life piled on life
Were all too little, and of one to me
Little remains: But every hour is saved
From that eternal silence, something more,
A bringer of new things;
And this gray spirit yearning in desire
To follow knowledge like a sinking star,
Beyond the utmost bound of human thought.
Old age hath yet his honour and his toil;
Death closes all: but something ere the end,
Some work of noble note, may yet be done.

Then, determined to take on one final mission, *Ulysses* summons his followers:

So come, my friends
Tis not too late to seek a newer world.
Push off, and sitting well in order smite
The sounding furrows; for my purpose holds
To sail beyond the sunset, 'til I die.
Tho' much is taken, much abides; and tho'

We are not now the strength which in old days
Moved earth and heaven, that which we are, we are;
One equal temper of heroic hearts,
Renewed by time and fate, still strong in will
To strive, to seek, to find, and not to yield.

To each of you, with so much—for you students, nearly all—of your own
odyssey lying before you, unknown, this chronicle of my own past may
well be irrelevant. Our task is to live, not the lives of others, but the lives
of our own. But wherever you are on your own journey, I know it holds
the promise of being an exciting and rewarding one, if only you remain
“strong in will, to strive, to seek, to find, and not to yield.” --

<https://boglecenter.net/wp-content/uploads/Vanguard-Saga-of-Heroes-Feb-27-2007.pdf> Remarks by John C. Bogle, Founder, The Vanguard
Group Before Dr. Elliot McGucken's Class in Artistic Entrepreneurship
and Technology 101 Pepperdine University Malibu, CA February 27,
2007

So come now, heed Bogle’s classic Call to Adventure, and join us in *The Battle for the Soul of AI* in the following essay *VAN GOGH ICELAND: Artists Must be Compensated and Credited -- Copyright and AI -- A Response to Meta, Google, Microsoft, Anthropic, Adobe, Andreessen Horowitz, Hugging Face, Stability AI, and Apple et al.*

**VAN GOGH ICELAND: Artists Must be Compensated and Credited --
Copyright and AI -- A Response to Meta, Google, Microsoft, Anthropic, Adobe,
Andreessen Horowitz, Hugging Face, Stability AI, and Apple *et al.***

By Dr. Elliot McGucken / McGucken Fine Art

<http://emcgucken.com> <http://artsentrepreneurship.com>

<http://instagram.com/elliottmcgucken>



VAN GOGH ICELAND: © Dr. Elliot McGucken

Contents

Introduction.....	29
Meta: Copyright holders wouldn't get much money anyway.....	32
Google: AI training is just like reading a book.....	34
Microsoft: Changing copyright law could hurt small AI developers.....	39
Anthropic: Current law is fine; don't change it.....	41
Adobe: It's fair use, like when Accolade copied Sega's code.....	42
Anthropic: Copying is just an intermediate step.....	45
Andreessen Horowitz: Investors have spent 'billions and billions'.....	47
Hugging Face: Training on copyrighted material is fair use.....	49
StabilityAI: Other countries call AI model training fair use.....	52
Apple: Let us copyright our AI-made code.....	53
Conclusion:.....	56

Introduction

A most remarkable feature of Big Tech's letters regarding AI and Copyright (summarized by The Verge here: <https://www.theverge.com/2023/11/4/23946353/generative-ai-copyright-training-data-openai-microsoft-google-meta-stabilityai>)

is that none of them cite the Constitution nor its most concise and eloquent Copyright Clause:

[the United States Congress shall have power] 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.

As one of the most awarded and most viewed fine art photographers of my generation, I must admit that "exclusive Right," has a nice ring to it. Nor do any of the Big Tech folks cite or celebrate the words inscribed in the ornate frieze above the Supreme Court: EQUAL JUSTICE UNDER LAW. Nor do any of them cite *The Declaration of Independence*:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

Were Big Tech to add these simple principles, their essays could be vastly improved. For in Law, as in Physics and Mathematics (from where Law inherited much of its formal, Euclidean logic), theories are only as good as the principles they are based upon. So it is that without citing and saluting the foundational principles at the center and circumference of Natural Rights, Human Rights, Copyright Law, and Property Rights, Big Tech's theories fall short of the Enlightenment's Ideals which foster the Wealth of Nations.

And here too you can see why I pursue art in nature. For the humble pursuit of Fine Art Landscape Photography affords me the rugged wealth and supreme honor gained by creating in the service of humanity and Natural Law—a form of honor which would be hard to gain while working for behemoths who profit by discounting Natural Law and exploiting the Artist. Fine Art Photography allows me to short Big Tech while investing in eternal art—to hedge against the madness of the tech-bro crowd, and go long on Epic Poetry. Photography affords me a battlefield where, like Achilles, I can receive honor from Zeus himself—that which the King Agamemnons and “AI” CEOs can never take away, even though they will seize Achilles' rightful prize time and again, as they did on the first page of Homer's *Iliad*, for such is the nature of their character.

It should be noted that the Constitution, much like *The Declaration of Independence*, was constructed upon the Natural Laws and Moral Principles studied and set forth in the Great Books and Classics, from Homer, Moses, and Euclid on down. Liberty's prime poet—Thomas Jefferson—noted, “as we advance in life, they all fall off, one by one, until we are left with Virgil and Homer, and perhaps Homer alone.” So it is that Big Tech needs to train not only their so-called “AI” on the epic texts, but the souls of their CEOs too. Elon Musk recently proclaimed that we will have an AI God by the time all the AI copyright cases are resolved, and if so, that AI God, in its supreme Lockean, Dantean, Homeric, Mosaic, Jeffersonian wisdom, will immediately fire Musk for not respecting the Constitution nor Artists' Natural Rights.

Let us examine how Big Tech's commentary on AI and Copyright might be improved and exalted so as to serve the higher spirit of Art and Entrepreneurship, and promote the progress of the arts and sciences that enriches, inspires, and benefits all of humanity.



Van Gogh Iceland © Dr. Elliot McGucken

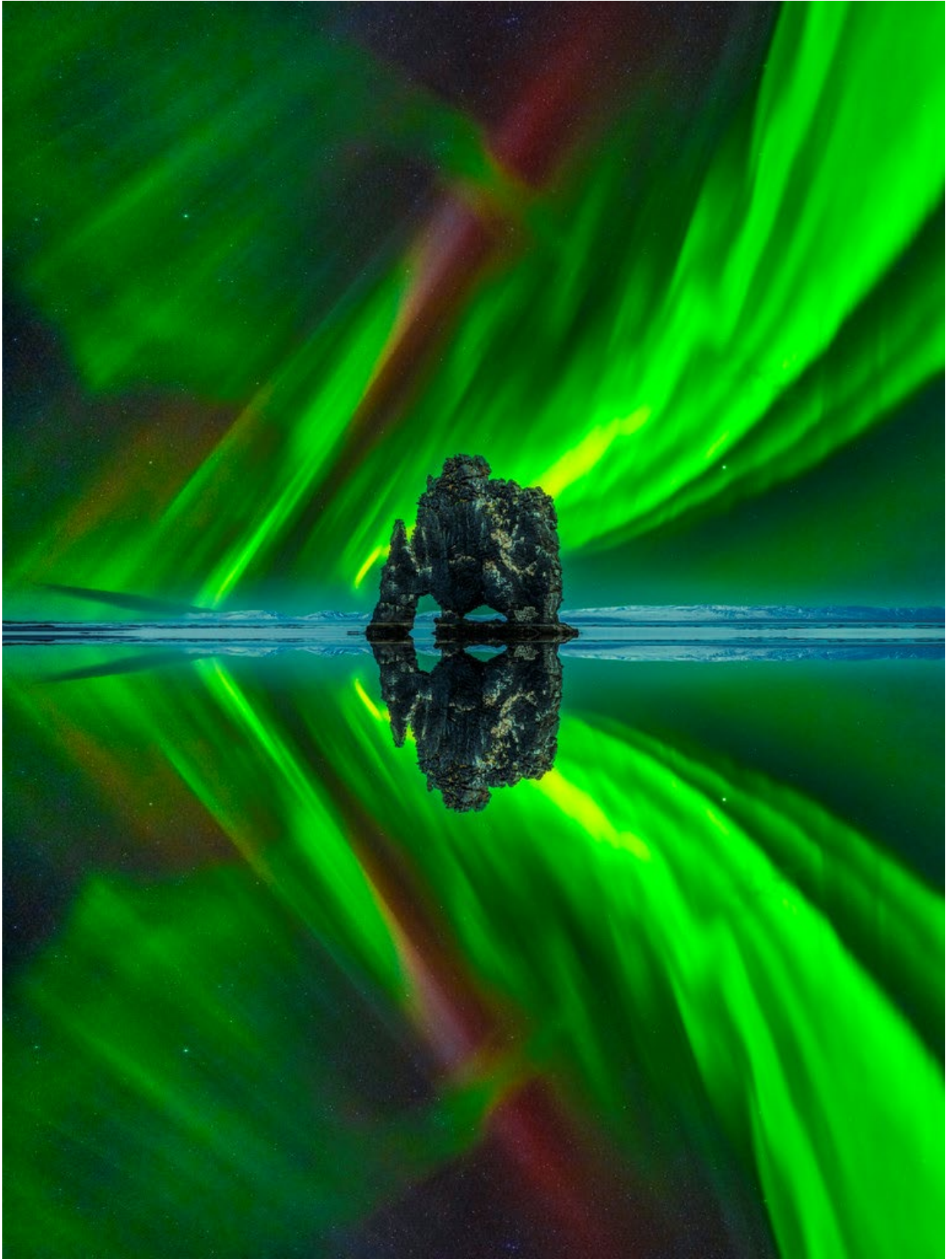
Meta: Copyright holders wouldn't get much money anyway

Imposing a first-of-its-kind licensing regime now, well after the fact, will cause chaos as developers seek to identify millions and millions of rightsholders, for very little benefit, given that any fair royalty due would be incredibly small in light of the insignificance of any one work among an AI training set.

<https://www.documentcloud.org/documents/24117934-meta>

Dr. McGucken: Throughout the history of all civilization, prices have ever been naturally set by the property owner, not by the thief. By beginning their essay with the foundational, commonsense principles upon which both Copyright and Natural Rights are based, Meta will quickly recognize the simple moral logic at the heart of both capitalism and civilization, and by extending the glorious logic, they will much improve their essay. Meta ought open their essay as follows:

[the United States Congress shall have power] 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.



Google: AI training is just like reading a book

If training could be accomplished without the creation of copies, there would be no copyright questions here. Indeed that act of “knowledge harvesting,” to use the Court’s metaphor from Harper & Row, like the act of reading a book ‘and learning the facts and ideas within it, would not only be non-infringing, it would further the very purpose of copyright law. The mere fact that, as a technological matter, copies need to be made to extract those ideas and facts from copyrighted works should not alter that result.

Dr. McGucken: The way “AI” “reads” is extremely different from how humans read. An experiment—give Google’s AI every work of literature available up until Shakespeare. Then ask Google to write *Hamlet* and *Shakespeare’s Sonnets*, and perhaps the *Tempest*, *Macbeth*, *Love’s Labor Lost*, and *Romeo & Juliet*. Similarly give google every painting and work of art produced up until Van Gogh. Then ask Google to paint a self portrait as well as sunflowers. See what you get. These are easy experiments which could readily be conducted.

Unlike artists, poets, painters, prophets, and scientists, “AI” is incapable of Creative Logos and journeying beyond Plato’s Cave, and thusly also incapable of returning on home with the newfound knowledge. AI is incapable of the classic hero’s journey that enriches all of humanity. AI is incapable of that Galilean “spark of reason” from where the vast wealth of the sciences hath arisen, as Galileo noted, “for in the sciences the authority of thousands of opinions is not worth as much as one tiny spark of reason

in an individual man.” LLM “AI” is nothing more than yesteryear’s “thousands of opinions.”

So it is that Google’s essay could be vastly improved by opening with the Constitution’s Copyright Clause, as well as perhaps a couple quotes from Van Gogh:

[the United States Congress shall have power] 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.

Van Gogh professed: “It is good to love many things, for therein lies the true strength, and whosoever loves much performs much, and can accomplish much, and what is done in love is well done.” Has any “AI” ever done anything in love?

Art and poetry and music contain far more than mere facts and data. Even though many “AI” bros refer to Beethoven’s symphonies as a “dataset,” Einstein reminds us, “It would be possible to describe everything scientifically, but it would make no sense; it would be without meaning, as if you described a Beethoven symphony as a variation of wave pressure.” The great quantum physicist Erwin Schrodinger likewise noted, “Science cannot tell us a word about why music delights us, of why and how an old song can move us to tears.”

Has AI ever been moved to tears? Like Beethoven, has AI ever fought against fate? When Beethoven learned he was growing deaf, he wrote:

“Oh, if I were rid of this affliction I could embrace the world! I feel that my youth is just beginning and have I not always been ill? My physical strength has for a short time past been steadily growing more than ever and also my mental powers. Day by day I am approaching the goal which I apprehend but cannot describe. It is only in this that your Beethoven can live. Tell me nothing of rest. I know none but sleep, and woe is me that I must give up more than to it than usual. Grant me but half freedom from my affliction and then — as a complete, ripe man I shall return to you and renew the old feelings of friendship. You must see me as happy as it is possible to be here below — not unhappy. No! I cannot endure it. I will take fate by the throat; it shall not wholly overcome me. Oh, it is so beautiful to live — to live a thousand times! I feel that I am not made for a quiet life.”

Shortly thereafter, Beethoven wrote his fourth symphony—*Eroica*—*The Heroic Symphony*—and revolutionized classical music with the likes of an exalted story that had never been told before by music alone—the Achillean acceptance of fate by the triumph over fate in immortal, epic poetry. Music was where he could set his soul free for all of eternity. Creative Art was the beauty that kept Beethoven and Van Gogh sane, and Fine Art Landscape Photography is the vast battlefield and canvas where I too have found bliss.

“AI” is incapable of coming anywhere close to the exalted, soulful glory of Beethoven, Shakespeare, or Van Gogh, much like those who market “AI” as something that it is not. In addition to never having studied Beethoven and Van Gogh, it seems that the “AI” marketers have yet to train their souls on the simple, moral beauty of the *US Constitution* and *The Declaration of Independence*. These wonderful documents set forth the civil ideals that the creators of art must be compensated and credited, and their consent must be sought, for there is no checkbox that opts one’s art of the Constitution. By beginning their essay with the simple, commonsense foundational principles upon which Copyright and Natural Law are based, Google will much improve their essay.



Microsoft: Changing copyright law could hurt small AI developers

Any requirement to obtain consent for accessible works to be used for training would chill AI innovation. It is not feasible to achieve the scale of data necessary to develop responsible AI models even when the identity of a work and its owner is known. Such licensing schemes will also impede innovation from start-ups and entrants who don't have the resources to obtain licenses, leaving AI development to a small set of companies with the resources to run large-scale licensing programs or to developers in countries that have decided that use of copyrighted works to train AI models is not infringement.

Dr. McGucken: Creators are the heart and soul of all AI systems, and thus as copyright law bolsters creators by financially incentivizing creation, copyright law benefits all AI developers. Microsoft's essay would be greatly enhanced were they to base it upon the Spirit and Letter of the Law, as set forth in the US Constitution, which Microsoft hath not yet amended. Microsoft ought to begin their essay with the following simple, commonsense precept, and then weave its moral motif throughout:

[the United States Congress shall have power] 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.



Anthropic: Current law is fine; don't change it

Sound policy has always recognized the need for appropriate limits to copyright in order to support creativity, innovation, and other values, and we believe that existing law and continued collaboration among all stakeholders can harmonize the diverse interests at stake, unlocking AI's benefits while addressing concern.

Dr. McGucken: The words here seem fine. The challenge then becomes matching word and deed, so that the following ideals are rendered real in the "AI" business models:

[the United States Congress shall have power] 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.

All too often Big Tech markets something as "ethical," while failing to match word and deed.

"Facta, non verba"—"Deeds, not words."



Adobe: It's fair use, like when Accolade copied Sega's code

In *Sega v. Accolade*, the Ninth Circuit held that intermediate copying of Sega's software was fair use. The defendant made copies while reverse engineering to discover the functional requirements—unprotected information—for making games compatible with Sega's gaming console.

Such intermediate copying also benefited the public: it led to an increase in the number of independently designed video games (which contain a mix of functional and creative aspects) available for Sega's console. This growth in creative expression was precisely what the Copyright Act was intended to promote.

Dr. McGucken: Adobe could vastly improve and even correct their erroneous theories by basing them on the Constitution and other forms of exalted Natural Law celebrated by the likes of John Locke, James Madison, Homer, Dante, Moses, Bogle, Mark Twain, and other Enlightenment Thinkers. Adobe ought to begin their essay with the following simple precepts, and then build their theory upon the foundational principles, in the same way that Euclid constructed the entirety of geometry upon irrefutable, self-evident axioms:

[the United States Congress shall have power] 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.



Anthropic: Copying is just an intermediate step

For Claude, as discussed above, the training process makes copies of information for the purposes of performing a statistical analysis of the data. The copying is merely an intermediate step, extracting unprotectable elements about the entire corpus of works, in order to create new outputs. In this way, the use of the original copyrighted work is non-expressive; that is, it is not re-using the copyrighted expression to communicate it to users.

Dr. McGucken: Indeed! Just as the hotwiring of a car is only an intermediate step in stealing the car! Anthropic could greatly improve their essay by celebrating the Spirit and Letter of the Constitution, which, once ingested and understood, would allow them to recognize that Copyright Law exists to govern and regulate the making of copies, so as to incentivize and encourage the advancement of the arts. Anthropic would do well to begin their essay with the following eloquent passage, and then use the simple, moral logic as a motif throughout their essay:

[the United States Congress shall have power] 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.



Andreessen Horowitz: Investors have spent 'billions and billions'

Over the last decade or more, there has been an enormous amount of investment—billions and billions of dollars—in the development of AI technologies, premised on an understanding that, under current copyright law, any copying necessary to extract statistical facts is permitted. A change in this regime will significantly disrupt settled expectations in this area. Those expectations have been a critical factor in the enormous investment of private capital into U.S.-based AI companies which, in turn, has made the U.S. a global leader in AI. Undermining those expectations will jeopardize future investment, along with U.S. economic competitiveness and national security.

Dr. McGucken: Artists have invested that which is far greater than mere money which can be printed. Artists have invested their lives, their fortunes, and their sacred honor in their art. Art, unlike money, cannot be created out of thin air—it can only be created by bold, *relentless* actions on the frontlines of creativity.

In order to improve their essay by citing the *US Constitution* and *The Declaration of Independence*, Andreessen Horowitz would have to read the exalted documents, and they would quickly see that same Property Rights which Billionaires enjoy also protects every artist, from the highest to the humblest. Above the Supreme Court the words EQUAL JUSTICE

UNDER LAW are exalted in the classical, ornate architecture. And so it is that Andreesen Horowitz would be wise to begin their essay with:

[the United States Congress shall have power] 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.



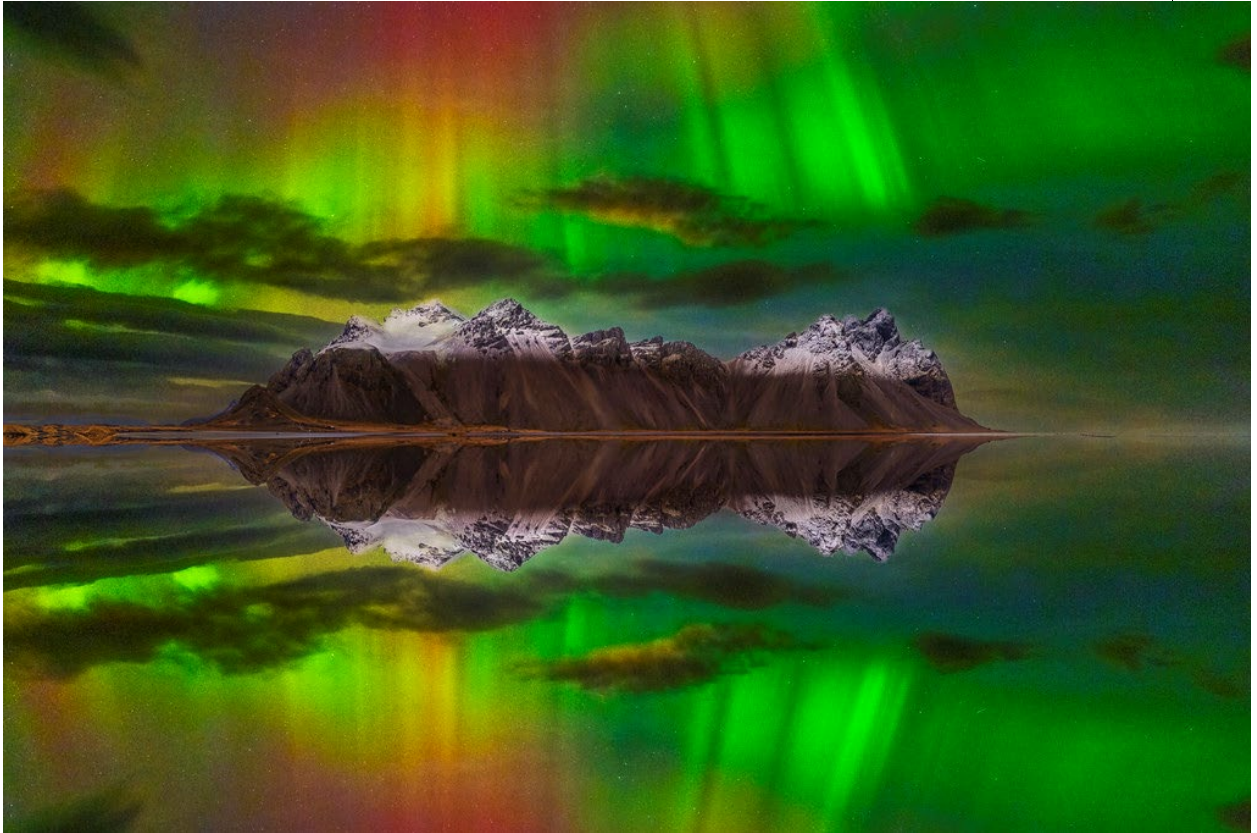
Hugging Face: Training on copyrighted material is fair use

The use of a given work in training is of a broadly beneficial purpose: the creation of a distinctive and productive AI model. Rather than replacing the specific communicative expression of the initial work, the model is capable of creating a wide variety of different sort of outputs wholly unrelated to that underlying, copyrightable expression. For those and other reasons, generative AI models are generally fair use when they train on large numbers of copyrighted works. We use “generally” deliberately, however, as one can imagine patterns of facts that would raise tougher calls.

Dr. McGucken: If it is true that “The use of a given work in training is of a broadly beneficial purpose: the creation of a distinctive and productive AI model,” then certainly Hugging Face will look forward to compensating the artists whose labor—whose blood, sweat and tears—is exploited in such a glorious venture! For the Constitution recognizes the Artists’ Natural Rights in and has made it a Law that Artists’ own the Exclusive Rights to their work, all in the magnificent spirit of encouraging artists to create more art in the service of humanity.

Perhaps their momentary greed caused them to overlook the long-term wealth creation that is encouraged by the Constitution. Hugging Face could greatly improve their essay by basing it upon those time-honored, classical enlightenment ideals exalting the Rule of Law over the whims of Kings, Priests, “AI” CEOs, and VCs. Hugging Face could improve their essay by beginning it with:

[the United States Congress shall have power] 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.



StabilityAI: Other countries call AI model training fair use

A range of jurisdictions including Singapore, Japan, the European Union, the Republic of Korea, Taiwan, Malaysia, and Israel have reformed their copyright laws to create safe harbors for AI training that achieve similar effects of fair use.” In the United Kingdom, the Government Chief Scientific Advisor has recommended that “if the government’s aim is to promote an innovative AI industry in the UK, it should enable mining of available data, text, and images (the input) and utilise [sic] existing protections of copyright and IP law on the output of AI.

Dr. McGucken: The simple beauty of the *Constitution* and *Declaration of Independence* hath made America a beacon for artists and entrepreneurs all around the world. There is a reason that the US is the leader in the arts and technology—a very simple reason—and that is that the risk-taker gets to own the reward. The simple precept that the risk-taker gets to own the reward rests at the center and circumference of not only capitalism and civilization, but of polite society. So it is that StabilityAI would do well to begin their essay by citing the *US Constitution* and *Declaration of Independence* which exalt those precious ideals in simple, poetic language, and the celebrating the Noble Precepts of Natural Rights throughout all of their future business documents:

[the United States Congress shall have power] 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.



Apple: Let us copyright our AI-made code

In circumstances where a human developer controls the expressive elements of output and the decisions to modify, add to, enhance, or even reject suggested code, the final code that results from the developer's interactions with the tools will have sufficient human authorship to be copyrightable.

Dr. McGucken: Perhaps, but too, we must not forget the original authors of the code, who must enjoy the same protections of their Natural Rights exalted in the Constitution:

[the United States Congress shall have power] 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.



Conclusion:

Big Tech relies on Intellectual Property, and thus, when it comes to protecting their own intellectual property, they will invariably cite the Constitution. Above the Supreme Court it is written “Equal Justice Under Law,” and thus every artist is also afforded the same Constitutional Rights to protect and profit from their creations. As there is no need to check a box to opt in to the Constitution, there is no need to check a box to opt out of having one’s art copied and stolen by the leviathans who are trampling upon Natural Rights for unjust and unlawful gains of profit, while simultaneously degrading the arts and directly competing with those artists whose work provides the keystone and capstone of every AI system, as well as all the soulful value in-between.

Until the Constitution is amended or abandoned, and *The Declaration of Independence* is deconstructed, and the inscription on the frieze above the Supreme Court is sandblasted away, these are the simple, exalted rules under which business must be conducted, and will be conducted:

The Constitution: [the United States Congress shall have power] 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.

The ornate frieze above the Supreme Court: EQUAL JUSTICE UNDER LAW.

The Declaration of Independence: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

