

October 18, 2023

Individual

Dear US Copyright Office,

I am a Gen-Z filmmaker and artist.

I am writing today to voice the opinion that it would be a disaster and a travesty if you were to reverse your previous rulings that generative AI tools such as ChatGPT or Midjourney cannot commit legitimate acts of copyright. Not only must you hold strong to this ruling, but you must go further in your statements and recommendations to policymakers and the legal system.

It is essential to the understanding of copyright law that a person's right to copy is determined by the act of authorship. Key to this statute is that there is a difference between an idea, and producing the labor of authorship that turns an idea into a work of creative expression. An act of creative labor must occur, performed by a person, for the authorship standard to be met, and this has been your office's ruling twice now.

Technology companies are selling that this is a tool for democratizing the creative process, letting normal people skip the "boring part" of laboring over an idea and refining it into a finished work. A common mistake by non-artists is the belief that ideation is the lion's share of a work's creative labor. It is not. Ideas are easily had, it is the experience of knowing what a good or bad idea is, and the craft to make it come alive in your artistic medium of choice that makes up the labor. A creative tool does not and cannot replace this process, for this is a labor of the individual's mind and lived experience, unique to their existence. A creative tool's aim is to enable possibility, not replace experience. A program that can select an edge finer than my eye can see is a tool that enables possibility. A program that attempts to mathematically replicate the lived experiences and creative minds of others so that I do not have to refine my own, is not a tool of possibility, it is at best a party trick, and at worst, a tool of theft.

If, as you have ruled twice, these machines are not capable of committing an act of authorship, then it follows that they cannot meet a legal standard of fair use. Without authorship, there can be no transformative action applied to the creative work from which this new output has taken from. Without fair use, then what is left is only theft and fraud. A newly invented type of digital art theft.

The right to copy is one of our most important civil rights, because it protects the value of our creative labor in the market and allows all artists, professional or hobbyist, to maintain control of the use and production of their art, which as a product of creativity and lived experience, is fundamental to the pursuit of happiness

If I were to break into a museum or home and steal a piece of art, that is theft. If I were to replicate the style of a famous artists and sell my work as legitimate pieces of their output, that

is art fraud and plagiarism. What has been invented in theory is a roadmap for creating a digital Mechanical Turk, a trick, where a tool pretends to commit an act spontaneous mechanical ingenuity, while regurgitating an act human experience.

As [The Atlantic](#) has already uncovered, companies like Meta have not purchased copyright permissions to train their programs, but have taken from these works without compensation or individual negotiation. They have “scraped” unfathomably large sections of the internet like fishing trawlers, and now attempt to shift liability over to their users by enabling individual users of their programs to do the same. But these programs are only capable of hiding plagiarism, theft, and fraud behind pretention to authorship. They have found a way to steal brush strokes, turns of phrase and compositions. What has been democratized is crime itself, and they want you to backdate and endorse all the crime that has and will be committed by it. They do not sell creative tools, they sell crime itself.

The very idea that one must “opt-out” of being stolen from is not a legal solution that should be entertained. Should one be required to “opt-out” of their car being stolen or their private property invaded? What more private property is there than the products of own’s own mind?

Surely it is plainly obvious that the democratic balance of copyright generation would be irrevocably undone if granted, and the power of this right forever given to those with the money to control it? If every lone artist must fight every person with the \$25 a month required to steal their work, they will be drained dry of financial ability by the volume and might of theses thieves and the expense of their lawyers.

This is the greatest art theft in the history of the world, and this is the moment the Copyright Office must meet.

Not only must you forever deny copyright to the output of these plagiarism machines on the grounds of their inability to meet the authorship standard, I beg you to do so forcefully. Make it clear to judges and prosecutors that they cannot commit transformative acts of fair use. Send summaries of your judgment to the White House and Congress, and tell the public you have done so. If you have a method for doing so, recommend charges, or guidelines for charges of fraud and copyright violation to the Department of Justice against these powerful bad actors.

It is your office that is charged with developing the expertise to pass judgment on who can receive the right to copy of individual works, and so it is your office to whom this responsibility has fallen. I do not envy you, finding yourselves to be the most important generation of your office to ever hold it, but that is who circumstance has made you. You have no voters to face, only history itself. If you endorse this crime, or even act in half-measures against these powerful thieves, then you will eradicate the very purpose of your existence: protecting the creative labor of any and all human citizens of this nation.

I beg you, act with care and with force.

Sincerely, a working artist.