Submitted by:
Nil Shah, CEO
Verance Corporation

Attn:
Shira Perlmutter
Register of Copyrights and Director

Date:
October 30, 2023

United States Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000

Submitted Via *regulations.gov*

Re: Response to the Copyright Office's Notice of Inquiry and Request for Comments, published August 30, 2023

Dear Ms. Perlmutter:

I write on behalf of Verance Corporation in response to the Copyright Office's notice of inquiry and request for comments, published August 30, 2023, seeking input regarding the use of artificial intelligence (AI) in relation to copyrighted works. Specifically, Verance would like to respond to Question 29, which seeks information regarding tools (existing or in development) for the identification of AI-generated works. In the Copyright Office's "listening session" about AI issues in April and May of this year, concerns about the ethical use of AI were expressed consistently and repeatedly, both in terms of the need to acknowledge the rights of creators to attribution, consent, and compensation in the use of their works in training generative AI systems as well as concerns about the harmful deception in the unauthorized use of a person's image, voice, or other attributes ("deep fakes") or the misleading or falsified presentation of otherwise legitimate news clips. Verance has recently announced the application of its award-winning watermarking technology to the important task of offering viewers insight into whether clips of news reports presented to them are authentic. This technology is also ideally suited to confirming the authenticity and provenance of copyrighted works used to train generative AI systems to provide proper attribution, an opportunity for consent, and compensation of creators of such works.

Who is Verance?

Verance, located in San Diego, California, is in its third decade of offering innovative, industry-leading watermarking technology to support the creation, distribution, and consumption of high-value digital entertainment content, including digital music, movies, and broadcast television. Verance has partnered with major record labels, movie studios, television broadcasters, and consumer electronics manufacturers as the recognized leader in watermarking technology. In fact, Verance was awarded an Emmy for its Aspect watermarking technology supporting broadcast television. Verance watermark detectors have been incorporated into more than 500 million consumer electronics devices worldwide, including early digital music players, Blu-ray Disc players, and smart TVs.

What is a Watermark?

A watermark is a signal, undetectable to human senses, that is embedded in a work, whether visual, audiovisual, or other format. Verance's watermark technology is robust, meaning it is highly resistant to efforts to remove it, once embedded. Because the watermark is embedded in the work, it goes wherever the work goes, and generally survives transformation of the content from one format to another or transfer of the content from one medium to another. Participating devices scan incoming content for the presence of the Verance watermark. In response to detecting (or not detecting, depending on the nature of the content) the watermark, the participating device will take action based on its rules, which might be to reject playback of a pirated Blu-ray Disc, trigger an app or an online source on a smart TV for additional viewer interaction, or present a notice to the viewer that the news clip appears to not be legitimate. The watermark can also carry information which identifies the source of the content, providing the ability to determine whether the content is authorized to be used in the training of generative AI systems.

How Does the Verance Watermark Apply to AI?

In practice, Verance's AI watermark is embedded in content to be included in a television broadcast (or other content delivery system). The watermark carries both source identification and time code data. A participating television (or other receiving device) screens incoming signals for the presence of the watermark. Upon finding it, the device reads the data in the watermark and can present an on-screen notice to the viewer if the watermark appears to have been corrupted, for instance, because the time code is interrupted, indicating segments have been edited out. This gives viewers the ability to exercise discretion in whether to trust that such content is being presented honestly, reducing the risk that "fake news" will unfairly influence the public in a hotly-contested election season.

Because the watermark carries identification information, including the possibility of an indicator to express the creator's wishes regarding whether the content is authorized for inclusion in generative AI training, ethical AI providers will have a direct indication of whether they may proceed with using such content in their AI training, and, if consent of the creator is indicated, who should receive any applicable compensation and what attribution should be represented in the output product of the AI system. To the extent a direct excerpt of watermarked content is used in an AI-generated creation, the watermark will assist the creator in identifying the contribution (authorized or not) so that appropriate action may be taken by the parties.

Verance proudly announced in August of this year that it is launching its watermark technology to address issues of provenance and authenticity of copyrighted works in the context of AI, including, among other things the detection and identification of falsified or falsely-presented news clips. This will provide real-world assistance to consumers and strengthen confidence in our national election system during uncertain times which have seen an alarming surge in the existence of falsified and falsely-presented news clips designed to mislead consumers. Verance looks forward to working with news broadcasters, consumer electronics manufacturers, and additional stakeholders in making these tools available as broadly as possible. More information can be found at www.verance.com.

Thank you for the opportunity to participate in this process, and we look forward to any questions the Copyright Office (or other interested parties) may have.

Sincerely,

Nil Shah
Chief Executive Officer