

I also claim that generative AI, as it stands now, infringes on existing copyrights. Chapter 1, Section 103, Subsection a of the Copyright Act of 1974 states, "The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully." There have been instances of authors finding their works have been used to train generative AI without permission. Chapter 1, Section 106A, Subsection e states that, "The rights conferred by subsection (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified." The waiving of rights could not occur if the author was taken by surprise, so the training of the generative AI and subsequent outputs do not qualify as derivative work but instead as infringement. Intellectual property laws exist to economically protect creators. If the authors are not being compensated for their work by the AI's developers, then their creations are being infringed upon. An AI can produce works much faster than a human and therefore cheaper much cheaper than a human. It follows that corporations may be incentivized to use AI rather than pay for human artists. This would negatively impact human artists as they would begin to lose clients to generative AI. This would be harmful to both culture and the economy as less money is circulated, less people will be able to live off creating and therefore less people will create.

We cannot rely on machines to create our art. They do not have our interpretations, decision-making, and understanding to do so meaningfully, merely taking what is already in existence and repurposing it. Later, I argue that generative AI should not train on generative AI, so more humans creating both copyrighted material and material for AI training is a good thing and should be protected. I would recommend outputs be required to be disclosed as AI outputs rather than passed off as human creation and valued accordingly. We create because we feel compelled to, and that should be respected and valued more than a relatively quick generation made with no thought or emotion. In the case of using peoples' voices to use AI to make them say things they have never said, there are a myriad of issues. First, voice actors rely on their voice to make their living. Using AI rather than a human actor would destroy the industry and have economic repercussions. Therefore, human artists should be prioritized over AI outputs. Also, AI can make it trivial to produce hoaxes and misinformation by making it appear that a person said something they never did or would never do. Especially in this case, a clear label denoting this as not coming from the actual person should be required.

With what we have discussed so far, I believe that if an author's work is found to be in the dataset of the AI's training tools and the author did not provide written consent for their work to be there, we can find the AI to be in breach of copyright. Most of the liability should be apportioned to the developer of the AI for failing to procure proper permission with the author. An AI user should not be found in violation of the original author's copyright because the output which used the work has transformed it and they only own the prompt, not the output as argued in an earlier paragraph. AI developers should face sanctions the same or similar as copy shops found to have copied a work without permission ("... copy shops have been sued for

reproducing copyrighted works and have been required to pay substantial damages for infringing copyrighted works. The policy established by a shop is a business decision and risk assessment that the business is entitled to make, because the business may face liability if they reproduce a work even if they did not know the work was copyrighted,” <https://www.copyright.gov/help/faq/faq-fairuse.html>). The only IP the AI developers have jurisdiction over is the AI itself, they do not have any claim to the works they AI trains upon. We should prevent AI from training upon AI works. If AI outputs are non-copyrightable, they would theoretically be free for other AI to train upon. However, this may have the effect of corrupting the second AI's output and cause degradation of quality of outputs over time. I would recommend outputs be required to be disclosed as AI outputs so other AI trainers steer clear of them and seek human author permission for training data instead. Public domain works should be free to train on.