

Cathleen Towne
Personal Comment

1. According to your own webpage, one of the factors for determining whether or not a derivative or transformative work is considered fair use is the “**Effect of the use upon the potential market for or value of the copyrighted work**” (Copyright.gov, U.S. Copyright Office Fair Use Index). The use of AI technology to create artwork, scripts, visual effects, and literary works negatively impacts the value of the work that actual people do to create those same works without the use of AI. The creative industry is already massively undervalued and underpaid- authors do not receive enough payment from publishing houses or independent sales to live on, WGA and SAG are currently striking because they have been paid literal pennies and their jobs are now being threatened by the use of AI, artists have their commission rates questioned for being too expensive, and everything from English degrees to Theater degrees to Music degrees to Art degrees has long been considered “useless degrees”. All of these groups, with few exceptions for the ones who “made it big”, cannot live off the profits of their work already, so if AI technology can produce copyrighted material, there becomes no need to hire any writer, actor, musician, or artist because a computer can do it for free. In this case, my concerns regarding AI and fair use are not about the copyrighted work itself but of the labor that goes into that copyrighted work.

AI technology is also already impacting creators who post their work online. These works are not necessarily officially copyrighted, some may be unable to be copyrighted due to their derivative nature, but according to your website, that work is still protected under copyright:

When is my work protected?

Your work is under copyright protection the moment it is created and fixed in a tangible form that it is perceptible either directly or with the aid of a machine or device.

Do I have to register with your office to be protected?

No. In general, registration is voluntary. Copyright exists from the moment the work is created. You will have to register, however, if you wish to bring a lawsuit for infringement of a U.S. work. See Circular 1, *Copyright Basics*, section “[Copyright Registration](#).” (Copyright.gov, FAQs: Copyright in General)

By the time any of us had an inkling that AI scraping the internet was something to be concerned about, the damage had already been done. I have poems, short stories, story snippets, analytic essays, and shared brainstorming sessions all posted online, all already scraped into an AI dataset. I have pictures that I have taken and shared, I started as a creative writing major in college and had to turn in assignments via Webcourses, Word automatically saves to OneDrive, and there are still works I wrote in high school on Google Drive. More and more of our lives centers around the internet, and by the time anyone of us knew that AI scraping was a concern, all of our publicly posted works were being scraped and fed into AI generators, and every protection websites and individuals have rolled out since then has been in reaction to that scraping. I know people who are removing their work, who are limiting who can see it and access it, and who are no longer posting their works at all out of fear that it will be fed into AI generators.

Furthermore, AI simply cannot create new material. It must be fed examples to learn from, to mimic, to blend together into something new, and according to your website:

How much do I have to change in order to claim copyright in someone else's work?

Only the owner of copyright in a work has the right to prepare, or to authorize someone else to create, a new version of that work. Accordingly, you cannot claim copyright to another's work, no matter how much you change it, unless you have the owner's consent. See [Circular 14](#), *Copyright Registration for Derivative Works and Compilations*. (Copyright.gov, FAQs: Can I Use Someone Else's Work? Can Someone Else Use Mine?)

To me, this means that AI produced work cannot be copyrighted unless the original owners of the works that have been fed into the generator have given their consent for their works to be used to feed the AI and to generate AI produced work.

4. I think given the international and public state of the internet means that international consistency is important in this area. However, I understand that's hard to get 535 people to all agree to something, much less get international agreement to anything.

5. New legislation is absolutely warranted to address copyright and related issues with generative AI because the people who are most impacted and exploited by AI produced works are those of us who don't have money for lawsuits, especially against companies like Netflix and Google, those of us who don't or can't officially copyright our work, and those of us who just want to roleplay with our friends. If limits and regulations are not placed on AI produced works now, what is there to stop movie production companies from filming a street of people and using their likenesses to create AI background characters? What is there to stop companies from scraping private messages and emails and non-creative text-based posts on social media? Will I find that an AI has scraped the photos my mum has posted on Facebook and is now using part of my face as an avatar for a bot one day?

The time to trust in the ethics of companies is long past. They will cut corners wherever they can, and they will go for the cheapest option every time. Former President Trump got rid of some of the "red tape" that was FDA regulations, and baby formula companies decided to cut corners, resulting in the deaths of babies. Every workplace regulation we have came from union demands and strikes. Companies don't care about me beyond what they can exploit me for, so I need you to care about me. I shouldn't be punished by automatically giving up my copyright to my own work because I chose to share my hobby publicly.