BEFORE THE

U.S. COPYRIGHT OFFICE

Artificial Intelligence and Copyright	**Docket No. 2023–6**

COMMENTS OF MusicMix.ai

MusicMix.ai is a newly launched U.S. startup committed to the notion that creative content protected by a U.S. copyright has immense value and artificial intelligence (AI) systems must seek consent and provide compensation as a condition of using this content to "train" their large language models. We provide the following reply comments in response to the notice of inquiry and request for comments (NOI) published by the U.S. Copyright Office in the Federal Register on August 30, 2023, which supports the Office's study of the copyright law and policy issues raised by AI.

MusicMix.ai is building a platform capable of approving the creation of and managing the licensing, payments and royalties of AI created music. There are a number of music-related AI technology companies which strive to do things as diverse as identifying songs for sync licenses, determining musical provenance and driving fan engagement. To date, however, there are few, if any, efforts dedicated purely to building an efficient and effective rights-owner platform to gain consent for the ingestion of copyrighted works, provide creators control of their assets and establish a compensation mechanism for derivative works created by AI. The development of this platform will be difficult, but, despite claims to the contrary by large AI companies, it is possible.

As the National Music Publishers Association (NMPA) noted in their initial comments:

> *"Licensing musical works before training use is both required and practicable. Many digital platforms have successfully licensed musical works on a large scale in the free market in recent years. Digital platforms represent a substantial sector for the music industry, and there are well-developed processes in place for technology ventures to obtain free market licenses on a large scale."*[1]

MusicMix.ai is collaborating with a number of existing technology companies and AI experts to establish the intellectual property assets needed to build an effective licensing platform first focused on the needs of the music industry. We are consulting with legal experts and industry leaders to construct a framework that respects creators and compensates them for their work, and also empowers the growth of AI.

We realize the success of efforts from entities like MusicMix.ai will require a change in perspective and legal posture from companies in the AI industry. It is clear to us that the entirety of the AI and technology sector is committed to a business model built on the belief that the unfettered ingestion of the corpus of the world's creative works is simply fair use and they can freely build multi-billion businesses on top of these works that they do not own and did not ask permission for. They have also received massive amounts of venture backing which is very much at risk if it turns out their interpretation of U.S. fair use statute and jurisprudence is wrong.[2]

However, we believe that the strength of the U.S. copyright system, as seen in the leadership of the Copyright Office through this process, will prevail. We are also encouraged by the comments of other key government agencies and elected officials. For example, the comments provided by the Federal Trade Commission are extremely compelling and rightly frame the serious competition and consumer protection concerns associated with the massive potential piracy that may be involved in training AI tools:

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[1] https://www.regulations.gov/comment/COLC-2023-0006-8806

[2] https://www.axios.com/2023/10/23/venture-capital-ai-risk-investment#:~:text=Venture%20capitalists%20are%20pouring%20huge,ever%2C%20without%20quite%20realizing%20it.

"The use of AI technology raises significant competition and consumer protection issues beyond questions about the scope of rights and the extent of liability under the copyright laws. As the courts apply the doctrine of fair use to the training and use of AI,[3] the evolution of the doctrine could influence the competitive dynamics of the markets for AI tools and for products with which the outputs of those tools may compete. Conduct that may violate the copyright laws—such as training an AI tool on protected expression without the creator's consent or selling output generated from such an AI tool, including by mimicking the creator's writing style, vocal or instrumental performance, or likeness—may also constitute an unfair method of competition or an unfair or deceptive practice, especially when the copyright violation deceives consumers, exploits a creator's reputation or diminishes the value of her existing or future works, reveals private information, or otherwise causes substantial injury to consumers. In addition, conduct that may be consistent with the copyright laws nevertheless may violate Section 5."[4]

Professor John Mark Newman from the University of Miami School of Law also has an interesting, and related, perspective made in reaction to the release of the Biden Administration's recent Executive Order on AI:

"Widespread, indiscriminate taking for commercial use, without permission or payment, smacks of exploitation. An orthodox economist might call it "free riding" and a source of "market failure." Historically, the legal system would have called it "unfair competition." That's exactly what the Supreme Court called it in a 1918 ruling that involved the International News Service's widespread scraping and republishing of AP wire stories."[5]

In addition, legislation such as The Nurture Originals, Foster Art, and Keep Entertainment Safe (NO FAKES) Act of 2023 which is a bipartisan proposal to protect the voice and visual likeness of all individuals from unauthorized recreations from generative AI was introduced by leading Senate experts on IP law.[6]

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[3] *See. e.g.*, *Thomson Reuters Enter. Ctr. GmbH v. Ross Intel. Inc.*, No. 1:20-CV-613-SB, 2023 WL 6210901, at *6-11 (D. Del. Sept. 25, 2023) (fair use defense in a case involving scraping content for training a generative AI tool).

[4] https://www.regulations.gov/comment/COLC-2023-0006-8630

[5] https://lpeproject.org/blog/seven-reactions-to-bidens-executive-order-on-artificial-intelligence/

[6] https://www.coons.senate.gov/imo/media/doc/no_fakes_act_one_pager.pdf

Perhaps most encouraging however, were the recent comments made by Ed Newton-Rex, former VP of Audio at Stability AI in his resignation from the company on November 15, 2023. His resignation came after, and is directly tied to, Stability AI's initial comments to the Copyright Office in which they claimed that their unauthorized use of copyrighted materials to train their AI is so important and so "socially-beneficial" that it must be protected by fair use. A full reading of Mr. Newton-Rex's post is invaluable, but this portion should be definitive:

> *"Companies worth billions of dollars are, without permission, training generative AI models on creators' works, which are then being used to create new content that in many cases can compete with the original works. I don't see how this can be acceptable in a society that has set up the economics of the creative arts such that creators rely on copyright."[7]*

How can it be that we are asked to believe a handful of companies can create a technology that approximates human intelligence and is capable of solving problems ranging from climate change to disease prevention, yet it is impossible to build a system to compensate the creators of the content and knowledge that they use?[8]

Can Copyrighted Works be Effectively Licensed?

Absolutely, and we are developing a model to do it. However, the process is nascent and will require leadership of major AI companies accepting the view taken by nearly everyone outside their industry that copyrighted content must be licensed for their use.

The NMPA's initial comments are again useful in this regard:

> *"It is critical that a market to license copyrighted works for use in training AI models exists and is growing. The market is not merely a "potential" or theoretical market the existence or feasibility of which is open to debate; it is an actual market, with great potential for growth. Music companies are currently licensing works for use in training AI models. If generally allowed under a too-broad interpretation of fair use, the widespread unlicensed use of these works would eviscerate that market.*

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[7] https://twitter.com/ednewtonrex/status/1724902327151452486

[8] https://blog.google/technology/ai/7-ways-google-is-using-ai-to-help-solve-societys-challenges/

Further, the ultimate result of a well-trained generative AI model is its ability to draw upon content included in its training set to produce works that directly compete with the works copied in training. Thus, licensing control and revenue are especially critical in connection with training AI models, since AI can be used to generate works that compete in the marketplace with the copied works, thereby reducing revenue from existing licensing markets as well."[9]

This effort is supported by organizations like Liquidax Capital, LLC, professional individuals and others from AI technology organizations including platform developers, copyright owners and other AI experts. We all have come together in order to launch and build a seamless platform that will allow copyright owners and LLM's to work together enabling the ability for derivative works to be created and licensed through the LLM without LLM's having to "train" on existing copyright assets (Songs, Lyrics, Videos, Film, other Copyright Assets, etc.) and whereby a commercial process is created allowing everyone to obtain proper compensation without infringing the intellectual property rights of any party.

A high-level overview of what is being developed and protected by patents is outlined below:

[9] https://www.regulations.gov/comment/COLC-2023-0006-8806
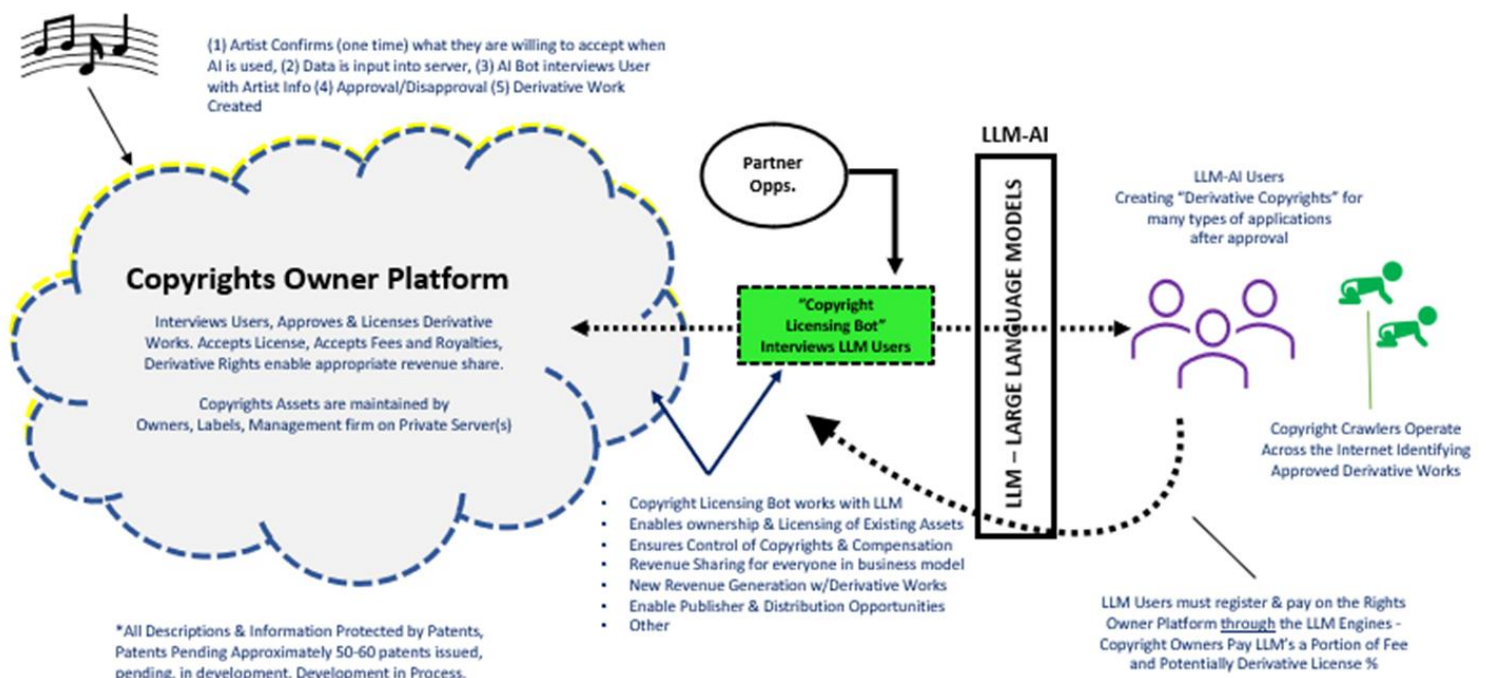
We appreciate the opportunity to submit these comments.   We would welcome the opportunity to work with the Copyright Office and other stakeholders in the future.

Respectfully submitted,

Daniel Drolet   Chris Israel
Co-founder   Co-founder
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