15 Changes US Copyright Office Can Do Today Helping To Preserve Middle Class Wealth, Human Authorship And Original Author Styles In The Era of Generative AI

Written by Erik W. Gottlieb, September 21, 2023. Version 3
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OVERVIEW
This paper describes a conflict occurring with advancing capabilities of Generative AI software, such as ChatGPT and Midjourney. There are (at least) 15 changes the US Copyright Office can do to reduce and eliminate pieces of the Generative AI and copyright conflict.

PROBLEM STATEMENT
1) *Generative AI software applications output non-copyright registrable content, not human authored, not registrable.*
2) *When anyone can make any piece of content, then fakes may proliferate in the marketplace, thereby eroding product value and income streams.*
3) *A Generative AI software application may be able to output a synopsis of a work, a book, a author style and even appear to be able to discuss a work. Only because the original work (or a synopsis of the work) was used in training the ML model.*
4) *When anyone can generate content "in the style of…" then what is the incentive for purchasing any creative work when you can just trigger the generation of output "in the style of…"*

In year 2023, most people get their music, apps, books, games from Apple App store, iTunes Store, Spotify, Amazon, Google Play, YouTube. These services generate (collectively) billions of dollars of income for a population of medium and small companies, "creators", essentially middle-class and upper middle-class. People paid by sales through these services and these same people tend to spend their money locally, enabling a local economic multiplier effect.

If in 5, 10, 20, 30 years Generative AI applications will be able to create nearly any content: images, music, fiction, poetry, technical books, movies "in the style of…" Elvis, Lucas, Spielberg, Swift, 1960s surf tunes, Paul McCartney- then at some point, in some not to distant generation, "customers" won't pay for the original, human authored works. And iTunes, App Store, Google Play, Spotify may become a activity of the past- and so too may the annual billions of dollars generated for a thriving creative, middle-class.

A US Copyright is for the lifetime of the author plus 70 years. At some point in time, all human-authored works, copy written today will eventually pass into the public domain. The issue here is that public domain, further increases the probability of erosion a work, by opening up the work to anyone who may wish to "adapt" and re-work, thereby

making a derivative of the original. For example, Winnie the Pooh passes into public domain. A derivative of Winnie the Pooh as a horror movie is clearly counter to the original intent of the author, the characters and arc of story about childhood, friendship, adventure and exploring. Many derivatives erode original author style, original author arc of story and characters.

We cannot let the future of the economic 'value chain' of music, literature, cinema, television, streaming channels, become only: Who can write the most creative "Gen AI prompt" to create something "in the style of…" If that is where the Creative Economy is going, then be prepared for not just economic transformation over the next 10, 20 30 years, but also for economic value evaporation of some services helping the US middle-class income stream in 2023.

As US citizens we cannot sit idly by and let significant economic wealth (largely) created by the middle class, creatives— just evaporate because of inability to understand the benefits of Generative AI and potential significant problems. There are at least 15 changes the US Copyright Office can make now, to strengthen the foundation of US Copyright and enable human authored works protections and extended longevity.

SOLUTIONS
Solutions in **short form first**, **between pages 2 and 5**, then more detailed explanations for each solution in pages 5 through 11.

1. **Extend amount of time copyrights remain registered.**
   Purpose: In year 2023 copyright 'ownership' is for sole author lifetime plus 70 years, before a work passes into public domain. Extend duration to 300 years or longer. Treating copyright IP 'ownership' similar to land ownership and other personal property. So that sole-authors can preserve their rights to their works and pass their IP works from generation to generation. Thereby, preserving wealth in their family, preserving product line income over generations, preserving storylines, preserving unique characters as they were created by original author, preserving compositional structures and therefore style of work for 300 years.

2. **Right 'Not' to have a work used in machine learning model training.**
   Purpose: Extend 'All rights reserved.' Allowing sole-authors to have and defend their *right, NOT to have their work used in machine learning model training*

   During the **copyright registration procedure**, a checkbox or radio button.

   [X] Author of this work has NOT approved this work for ML training, neuromorphic training or any other software training leading to a model of the work, registration number, title.

3) Add data field to standard US Copyright publicly viewable record. "Author does NOT grant usage right…"
Purpose: As part of the US Copyright Office publicly viewable record. Messaging including:

Author does NOT grant usage right of this work to be used in the training of machine learning models and or Generative AI software systems. Extends and strengthens the rights of 'All rights reserved.'

4) Update circulars regarding use and of 'All rights reserved.'
Purpose: The formal copyright on a work has the option of including:

©Copyright (Author name), (date). All rights reserved. All publishing rights reserved.

US Copyright Office publishes short booklets describing various aspects of copyright law and registration procedures. These booklets are called Circulars. Circulars need to be updated informing sole-authors of the list of their rights and how to use: All rights reserved. Publish in copyright.gov circulars, use-cases, explaining which publishing rights are 'reserved' in (All rights reserved.) and how to properly use 'All rights reserved.', as part of a copyright line affixed to a work.

5) "**NO Generative AI application used to create this work**…".
Purpose: Upon registration of a new work, a declaration that no Generative AI application was used to create the work being registered. Publish in copyright.gov circulars how authors can include a formal declaration in the Notes to Copyright Office portion of their registration. Example:
NO Generative AI software application was used in whole or in part in the authoring of this human-authored work, (registration number), (registration title). This is a declaration written by the author of the work when the work is registered in the e-co copyright registration system. This "fix" is temporary until the e-co software interface can be upgraded to support #6.

6) Add checkbox, declaring, "No Generative AI used to create…"
Purpose: To tell copyright registration analyst that work being registered is a completely human-authored work. A check box or radio button selected in the copyright registration process agreeing, declaring:
[X] I, (author name), declare NO Generative AI application was used to create sole-authored work (registration number), (title of work) being registered.

7) Update and publish in a Circular procedures for engaging with CCB.
Purpose: To stop fakes flooding a market space and how to engage with CCB (Copyright Claims Board), how to write a complaint, request cease and desist order and legally sue for economic compensation from Generative AI model creators and distributors creating applications that output content that looks, sounds, reads the same as or contains arc of story, characters and other components of a originally human authored work.

8) Add category to Title 17, 'IP Registers, IP Owners, IP Rights Owners and IP Holders Must Be Human'.

Purpose: To keep IP ownership under the control of humans. Extend Title 17 specifically declaring Generative AI software applications, Generative AI entities, Robots, neuromorphic software applications, quantum generative AI software applications and smart appliances cannot 'register' intellectual property, cannot 'hold' intellectual property (as in a holding company), 'cannot be corporate entities declaring intellectual property stewardship, cannot control ownership.

9) US Copyright Office can champion as part of outreach support for US Law that Generative AI Applications, AI Expert Systems, AI Networked Expert Systems and Robots cannot own intellectual property, cannot own bank accounts, cannot register and own corporations, nor be corporate officers, nor corporate leaders and not corporate board members.

Purpose: To keep ALL IP ownership (not just copyrights) under the control of humans.

10) Publish simple 'Registration Rule' on <u>copyright.gov</u> and <u>copyright.gov/ai</u>, in copyright Circulars and video trainings, 'Not human Authored, not registrable'.

Purpose: Consistency with US Constitution, Article 1 Section 8 and 21st century US legal case rulings whereby a copyright registration's components must be human authored to be registrable.

11) Publish use-cases in a Circular for each of the 1/3, 1/2, 3/4 Generative AI 'mixture registrations' containing some human authorship and some Generative AI Output.

Purpose: To show sole authors, by approved, published use-case example 'Which category does my registration conform to?'

12) Create and publish new Circular on copyright.gov for Computer Science Professions, Computer Science University Instructors and Students

Purpose: Circular explains what the 'Opt Out' data field means on a copyright registration. Circular explains the scope of copyright designation and 'All rights reserved.' Explains that CCB exists and that makers of machine learning models can be sued if they use copy written content that is designated in the copyright registration as 'Opt Out' from ML training. This work NOT approved for use in machine learning model training.

12.1) How Computer Science Professionals Can Create And Register Their Own Datasets For Their Own ML Models

Computer Science professionals need to respect copyright and the best way to do that is to have them participate by copyrighting some of their own ML training datasets by writing, photographing, making music- registering their original human authored content. They can use their content to train their own ML models. Owning their own, human authored, original dataset means they will have established a clear line of authorship from source materials, to trained ML model, to published model.

Intent is to stop Computer Science professionals who treat content as free to use in their machine learning model training. By registering their own works- they may have a greater understanding of the amount of time and money required to create ML model content and what it means to participate in creative authorship.

At the very least, creating their own datasets by actually writing, using their own camera to photograph 10000 objects, etc, should enable a clearer line of authorship computer science professionals can use to demonstrate with their own machine learning models.

Hopefully, leading Computer Scientists to greater consciousness of the erosion and dilution capabilities of Generative AI output. And maybe, leading them to be advocates for the strengthening of existing US Copyright. If that is not enough, then when a Computer Science professional goes to sell his/her startup, having their own verifiable already copyright registered dataset- will demonstrate a clear line of authorship of their machine learning models.

13) Create, approve and promote a labeling, "NON GEN AI"

Purpose: Distinguishes how product was made. Attempt to preserve value chain for human authors, musicians, creators, IP authors and IP owners. To retain IP work value, demonstrating that work was not auto-generated. Similar to Non-GMO consumer labeling. Informs consumers about contents. Or a label such as: "NO Gen AI used in the creation of this product." Thereby communicating that a human created the work. Infers a person will likely be paid for their creative work.

14) Upgrade Title 17 (If necessary).

Purpose: Assemble a US Copyright Office team to work with team of US Representatives to draft updated Legislation at the US Federal level.
Draft legislation and put to Congress to vote on updating Title 17 to contain any of the 14 ideas if they fall outside the current US Copyright Office mission, legally capable tasks and or Constitutional authority of US Copyright Office.

15) Anticipate Future AI, Copyright Problems 5, 25, 50 Years Ahead.

Purpose: US Copyright team to own as part of their quarterly deliverables research of the AI and Generative AI space, enabling US Copyright Office as a organization to understand where AI and Generative AI is going. Activity to create leadership on Generative AI topic from within and US Copyright Office not just reacting to events that have already happened.

CONCLUSION

The US Copyright Office needs to engage in the previously listed 15 tasks today to preserve the strength of US copyright and middle class wealth in USA pertaining to the conflict occurring with Generative AI software applications.

By not making changes- we run the risk of three Generative AI problems coming true. And (yet) these problems are not inevitable features of our future, unless we do nothing now. The three larger scale Generative AI problems:

1) *Erosion of longer term <u>middle class wealth</u> through the next decades of tidal wave of Generative AI content. A increasing probability of erosion and potential evaporation of platforms and streams of income for human authored content.*

2) *Erosion and erasing of original <u>author style</u> through a tidal wave of Generative AI content. With no metadata attached to Generative AI outputted content and consumers not being able to discern content's source of authorship- machine generated or human authored.*

3) *<u>Inability to distinguish</u> between human authored and Generative AI authored works- leading to a <u>polluted marketplace of fake content</u>. Requiring a necessity of NON Gen AI labeling and watermarking metadata.*

For More Information

1. US Copyright Office AI website. https://www.copyright.gov/ai

2. US Copyright Office accepting comments until October 30, 2023. https://www.copyright.gov/newsnet/2023/1021.html

3. US Copyright Contact form. You can send a suggestion to US Copyright Office, through their contact form https://www.copyright.gov/help under category choose Other. Either include the link to this .pdf or choose from the list of 15 items you feel most agreeable with to inform US Copyright Office of your position.

4. 100 leading people and their organizations pertaining to AI and Generative AI. https://time.com/collection/time100-ai/

5. DeepMind, watermarking Generative AI images: https://www.deepmind.com/blog/identifying-ai-generated-images-with-synthid

6. US Congressional Representative in your state. https://www.congress.gov

7. Stop Fakes. https://www.stopfakes.gov

Author Background

Erik W. Gottlieb has years of full-time employment and contractor work experiences with several small, medium and Fortune 50 US corporations in varying job roles. He is a University graduate. He is not a lawyer. *He does not* work as a legal adviser and is NOT

a trained, nor approved Intellectual Property lawyer. This paper is not meant to be actual legal advice. He is somewhat qualified to discuss some copyright topics and copyright registration procedures as pertains to sole-authorship by way of his 23 years of personal experience successfully registering over 100 copyrights of his own human authored works. (All registered without the help of a lawyer.) Additionally, he has over 45 years experience with his personal technology projects including: technical designs, electronic designs, source code (including ML libraries and custom trained ML models.) He has designed and created his own custom datasets for ML training purposes including digital photography, image datasets, text documents, drawings, sounds and music.

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