Generative AI models represent a fundamental threat to the livelihoods of all artists should any works created by them be allowed to have copyright protections.

Thus far, the Copyright Office, and the US Court system has held steadfast that works require human authorship, and this line must hold for a number of reasons. Generative AI models cannot create anything out of whole cloth themselves, they require a vast amount of training via materials they scrape the internet to acquire. This results in the theft of any works the creators of the model find relevant, including many copyright protected materials, and public domain materials. Humans, on the other hand, can imagine seemingly anything and produce a piece or art based on that imagining. AI models cannot incorporate any lived experience into its own mind, it cannot reflect on imperfect memories, it cannot attempt to elicit emotion. These are human characteristics of art. All stories, paintings, drawings, sculptures, films, photographs, are the sum of a human's choices, and each facet making up that work has meaning and purpose. A generative AI can only produce things that are similar to works it's been fed, the "choices" it makes are the result of an algorithm that pays no heed to the impact the production will have upon its prompter or audience. It cannot make a snap decision on the set of a movie to add or remove a light, or ask an actor to deliver a line with a different cadence or emotional weight. It cannot decide to blend a new color into the sky of an oil painting because the time of day feels off. It cannot decide to adjust the focal length of a camera lens to produce a more interesting photo composition. It cannot decide a third eye on a bust might better depict a spiritually awakened subject if the existing bust doesn't seem to evoke the result a sculptor wants. It cannot iterate to get the result it wants, because it does not have wants. It cannot take criticism and make changes if it wants to, because it has no wants, no desire to see a finished product, no aim to inspire, teach, or make someone feel something. These are human traits. Generative AI is a non-creative tool, not a creative human author (in any relevant definition) therefore, it cannot produce any copyright protectable works regardless of the human provided prompts or instructions.

Under current US Copyright office Guidelines a human who enters prompts into a generative AI model which produces "art" cannot become a copyright holder of the produced work as they did not create it themselves, and a generative AI model cannot function as an employee or enter into a work for hire situation. Even assuming generative AI works were able to be copyright protected, the AI would become the copyright holder, not the human who entered the prompt; if a person finds a caricature artist on the street and asks for a caricature, the artist produces a copyright protected work and the requestor gets the (presumably) sole copy of that protected work, but the copyrights do not transfer to them, it remains with the artist. Certainly, plenty of human artists operate under work for hire agreements, but they must be an employee or enter into an explicit work for hire contract per Copyright Office guidelines and US Court decisions, neither of which apply to generative AI models (nor the owners/operators of these generative AI models as they do not create the works themselves and the AI is not an employee).

My most pressing concern, as a writer myself, is that if AI generated works are allowed copyright protection, these models can generate an infinite number of poor quality, cobbled together stories at such a rate that there is grave risk of copyright trolling or squatting on an unfathomable scale. A bad actor could generate and register hundreds of thousands of works using generic, popular tropes as the input and come out with stories that could very well be substantially similar to human created works that post-date them and be able to sue for infringement just by having done a shotgun approach to "creation." Or what if a bad actor overhears a writer at a coffee shop or other establishment collaborating with another person, gets the rough outline of their story and pops that into a generative model and pre-empts their work? Or a member of a writer's group who does the same to one of the other members? The potential for abuse is immense and real. We have already seen the lengths copyright trolls will go to in such cases as Prenda Law, Malibu Media, and Richard Liebowitz to name three. Giving more people, through generative AI models, the ability to fabricate works of little to no substantial worth to the public discourse and granting them copyright protection is wrong, unethical, and dangerous.

I urge you to let human authored works to be the only works granted copyright protections in order to preserve the long history of human creativity and ingenuity, and keep the doors open for future generations of humans to exercise their own creativity upon the foundations laid before them.

Thank you for your time and consideration.

Taylor Mathews