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**VIA REGULATIONS.GOV**

**Re: Copyright Office [Docket No. 2023–6] Artificial Intelligence Study**

Fight for the Future submits this comment in response to the United States Copyright Office’s Artificial Intelligence Study.

**I.     Introduction**

Fight for the Future is a nonprofit human rights advocacy group focused upon promoting the just and equitable development of new technologies for the benefit of society. The group advocates for digital rights for all, with pertinent focuses on maximizing data privacy, expanding fair use, and combatting creative monopolies. As an organization committed to promoting technology as a force for liberation, rather than tyranny, Fight for the Future has long been concerned by the ways that copyright protections have morphed to protect large actors within the content and media industry.[[1]](#footnote-1) As it stands now, laws for creative works intended to “promote the progress of science and the useful arts”[[2]](#footnote-2) have instead built the bedrock for the creative monopolies maintained by many large companies, such as Disney, Amazon, News Corp and Spotify. This undercuts the power of artists and independent creators, and can actually disincentivize progress when monopolies give rise to gatekeepers.

As copyright law has long been used to aggregate the rights within large corporations, rather than with artists, Fight for the Future urges caution in handling the issue of copyrightability of Artificial Intelligence (AI) generated art. Groundbreaking technologies like generative AI can open up new opportunities for artistic expression,[[3]](#footnote-3) and Fight for the Future hopes to protect the interests of creators using these technologies without furthering current copyright monopolies. Copyright in AI must not perpetuate the continuing harms to independent artists that have become part and parcel of the industry.[[4]](#footnote-4) Rather, generative AI offers an opportunity for the Copyright Office to increase opportunities for independent artists by carefully negotiating the interests at the heart of the question of authorship in generative AI.

This comment seeks to address a number of interrelated issues. First, this comment will address some of the risks posed by increasing use of AI-generated material within creative fields. Taking a historical lens, the comment will briefly summarize some of the harms creative monopolies have exacted upon artists utilizing modern copyright law. These historical harms are deeply tied to the potential means by which generative AI can perpetuate existing inequalities in the content-creation space.[[5]](#footnote-5) The comment will then turn to a discussion of the nuanced importance of the human authorship requirement, and explore some of the established doctrines the Copyright Office has in its arsenal to meaningfully preserve human creativity while preventing harms to independent artists.[[6]](#footnote-6) Finally, the comment will turn to addressing significant privacy concerns around labeling AI-generated content.[[7]](#footnote-7)

**II. Historic Uses of Copyright by Creative Monopolies**

The current copyright regime serves to protect large companies and rightsholders to the detriment of individual artists. Significant power imbalances between the two groups are driven by corporations’ greater resources, market visibility, marketing ability, distribution network, audience size, and social influence.

Big Content conglomerates like Disney, Spotify, and YouTube have amassed such significant power in their respective markets, they have come to constitute creative monopolies. A creative monopoly establishes a specialty in its own specific market resulting in a situation where “everyone has to come to [the business] for that creative service or to attain the value that [the] brand has created.”[[8]](#footnote-8) A creative monopoly may be useful for a small artist to create a niche for their work that gives them a competitive advantage in the market. However, large creative monopolies by Big Tech, Big Media, and Big Content conglomerates create market dominance that reduces competition and permits significant barriers to entry for smaller artists.

These massive corporations have the resources to exploit artists at all levels. In 2017, the median pay for full-time writers was $20,300.[[9]](#footnote-9) The average pay for California actors in 2022 was $27.73 per hour.[[10]](#footnote-10) Big name celebrities are not immune. In 2015, Fox was ordered to pay $145m to cast members of the show, Bones, after it was determined the company shorted artists their fair compensation.[[11]](#footnote-11) In 2021, the task force “DisneyMustPay” took to the media to share grievances, most notably that Disney refused to pay authors outstanding royalties.[[12]](#footnote-12) Meanwhile, in 2022, Netflix raked in $31.6 billion in revenue and NBCUniversal brought in $39 billion.[[13]](#footnote-13) Artists of color are more severely impacted by financial exploitation. In the viral trend #PublishingPaidMe, authors around the country shared their book advances from publishing companies which uncovered that Black authors were disproportionally paid less than their white counterparts, despite some having award-winning novels.[[14]](#footnote-14) In response to these concerns, Penguin Random House and Hachette Book Group only committed to adjusting their diversity targets— not remedying the financial harms.[[15]](#footnote-15)

Recent disputes within the media and entertainment industry further highlight these issues.

The Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) and Writers Guild of America (WGA) strikes unveiled how large corporations reap major financial benefits from artists who struggle to make ends meet.[[16]](#footnote-16) Individual artists generate content for public consumption, but they have little or no legal rights to the work they create. Corporate employers exploit that content for significant profit while leaving artists with little.[[17]](#footnote-17) SAG and WGA worried AI may make this issue worse. WGA’s tentative strike resolution provides that AI cannot be considered a “writer” and human writers cannot be required to use AI-software.[[18]](#footnote-18) Meanwhile, SAG-AFTRA continues to push for AI regulation that places guardrails on an AI’s use of professional voices and likeness “without permission or compensation.”[[19]](#footnote-19) This highlights one of the main concerns that creative workers have about AI: that it will be used to further erode the control they have over their work.

Aggressive corporate copyright holders have leveraged attacks against internet users using DMCA takedown notices.[[20]](#footnote-20) These holders improperly claim copyright infringement against fair use content. “A copyright troll exploits that, turning inevitable influence into ungenerous and often highly frivolous litigation.”[[21]](#footnote-21) These antics harm industries like music which rely on past works to build on the art form, and disproportionately impact traditionally marginalized creators and creators of color. For example, since the 1970s, sampling music has become commonplace in Hip-Hop and R&B, art forms created by the Black community.[[22]](#footnote-22) Copyright does not recognize this legitimate artistic use of prior music but instead, invigorates racially biased critics to label sampling as theft or laziness. The use of DMCA notices has realized impacts—creatives are hesitant to include such works. This has even had a chilling effect on things like online music education, which relies heavily on fair use.[[23]](#footnote-23) For most creators there is no practical recourse against companies that target fair use content,[[24]](#footnote-24) stifling the market and making it more difficult for smaller creatives to reach larger audiences. This has grave impacts for the online marketplace of ideas and the broader equitable and diverse development of global arts and culture.

Today’s creative climate is not artist friendly. Big Content is not playing a fair game. It is out of line with the principle of copyright, which was to reward innovation, not suppress it.

**III. Potential Abuses of Generative AI Copyright by Creative Monopolies**

Granting copyright in AI-generated works has the potential to further exacerbate harm to individual artists by corporate actors. Most notably, there is already a palpable concern that corporate actors may replace employees for more economical AI. These fears are being heightened by real-world examples of deepfakes in acting,[[25]](#footnote-25) AI-generated books overwhelming online marketplaces,[[26]](#footnote-26) and AI’s ability to replace the labor of digital content creators with unskilled text prompts.[[27]](#footnote-27) While current copyrightability standards in authorship may mitigate the corporate inclination to replace human artistic labor with AI, broadening of the Copyright Office's stance on the copyrightability of generative AI would certainly increase the likelihood of undesirable corporate behavior.

Tensions around AI impacting individual artists have driven recent strikes in the content space.[[28]](#footnote-28) Generative AI has already been used in film to reproduce voice[[29]](#footnote-29) and film actors’ likenesses after death.[[30]](#footnote-30) The same is true for the living—background actors are often hired for a day (and paid on average $187) to be scanned for continuity and visual effects work.[[31]](#footnote-31)

These scans can be used, in combination with generative AI, to reproduce the actor’s likeness. Per the language of these contracts, companies maintain interests in utilizing background actors’ likenesses ad infinitum—far past the original gig and sometimes even after their death. As stated by a SAG-AFTRA member, “If they have my image, and they can manipulate it any way they want, why do they need to hire me again?”[[32]](#footnote-32)

Within the field of writing, Stephen King has famously spoken about the fact that his works were used to train an artificial intelligence.[[33]](#footnote-33) While Stephen King notes that he is unconcerned about AI being able to effectively replicate novel writing at its current state,[[34]](#footnote-34) AI can crowd out independent contractors writing less complex pieces. For example, GPT-3's “Jasper” can “produce blogs, social media posts, web copy, sales emails, ads, and other types of customer-facing content.”[[35]](#footnote-35) Human employees’ roles may be reduced from creative to merely editing AI output if corporations choose to unscrupulously increase their reliance on and cut costs with AI-software. As AI improves as well, such a change is likely to drown out individual artists’ work in the creative market as large corporations could invest in AI at scale and mass-produce works. We are already seeing this with the flood of AI-generated eBooks on Amazon.[[36]](#footnote-36)

Of course, all of these harms will be made far more pervasive if these corporations can receive enforceable copyright in content created with a generative AI. As it stands now, the Copyright Office’s de minimis standard[[37]](#footnote-37) does not, at the very least, provide a stamp of approval for behavior of this kind.

However, especially if the Copyright Office loosens generative AI requirements, copyright doctrine in this area runs the risk of having negative incentive effects. These changes could encourage corporations to engage in a process which may be referred to as “human-washing,” in which a human artist superficially edits an AI-generated work, generally with reduced pay, billable hours, or creative autonomy.[[38]](#footnote-38) From an enforceability perspective, it would be near impossible to distinguish the AI generated product and the human input without requiring a more substantial disclosure process with various iterative versions submitted. Furthermore, even with strictly drawn limits, it is not yet clear how the court would rule on infringement in these cases. Such a “human-washing” scenario is one that SAG-AFTRA negotiated to specifically avoid for its members.

Generative AI is already, and will certainly continue to, transform the field of content and art creation. Given the uncertainty regarding the full extent of future use-cases, questions regarding potential avenues for exploration—or exploitation—require the Copyright Office to regulate with a great deal of introspection. However, historical speculations about the death of certain forms of artistic expression due to technological advances rarely pan out as the doomsayers prophesize; for example, the invention of photography was accompanied by widespread conjecture about the inevitable demise of portrait painting.[[39]](#footnote-39) We believe AI will also be used as a tool by creatives and creators, albeit an unprecedentedly powerful one. While keeping the new realms of creativity AI might open for such artists in mind, we believe the Copyright Office’s historical attention to the importance of human authorship is a precedent well worth maintaining.

**IV. Importance of Human Ingenuity**

Human input has long been an essential aspect of copyright law. It has been well over one-hundred years since the Supreme Court proclaimed that copyright protects only those “fruits of intellectual labor” which “are founded in the creative powers of the mind.”[[40]](#footnote-40) This clearly implicates a human authorship requirement. As is familiar, this is necessarily complemented with a “fixation requirement.” (A work must be “fixed in any tangible medium of expression, now known or later developed, from which [it] can be perceived, reproduced, or otherwise communicated, either directly or indirectly with the aid of a machine or device” in order to receive copyright protection.)[[41]](#footnote-41) In other words, while such fruits must be initiated in the mind, they cannot reside there. They need to be “fixed in any tangible medium of expression, now known or later developed.”[[42]](#footnote-42) Evidently Congress anticipated that new technological developments would have to be accounted for. The Supreme Court embraces the idea that the Copyright Office has the ability to adapt legislation to new developments in technology. In Burrow-Giles Lithographic Co. v. Sarony, the Court examined the copyrightability and authorship of a photograph of Oscar Wilde. It its analysis, the Court held that “[t]he only reason why photographs were not included [in the Copyright Act]” was because “they did not exist, as photography as an art was then unknown[.]”[[43]](#footnote-43)

We have seen the law adapt to new artforms and media. But lack of foresight is not the “only” reason why an artistic medium would be missing from the 1802 Amendment’s list. Burrow-Giles references further factors relevant to why an artwork may have been excluded in its discussion of how labor intensive the process of “giv[ing] visible expression” to “the ideas in the mind of the author” was in the case of the Wilde photograph:

The photograph in question [...] is a useful, new, harmonious, characteristic, and graceful picture, […], to which he gave visible form by posing the said Oscar Wilde in front of the camera, selecting and arranging the costume, […] arranging the subject so as to present graceful outlines, arranging and disposing the light and shade, suggesting and evoking the desired expression[.].[[44]](#footnote-44)

In detailing the extent of the photographer’s efforts, the Court implicitly forwards an alternative: a world of happenstance and low-effort artmaking which might not qualify for copyright protection. It is this category that 17 U.S.C. §102(b) distinguishes with respect to “discoveries”—the domain of things stumbled upon, rather than created or crafted. And with respect to copyright, the question of originality, the Court proclaims, is “always open to examination.”[[45]](#footnote-45)

That we care about originality in copyright is practically axiomatic. 17 U.S.C. §102(a) specifies that it is only original works of authorship that should be “fixed in a tangible medium of expression.” But what might not be obvious is that originality alone is rarely seen as “enough” to warrant a grant of copyrightability. For example, some courts have forwarded a two-part definition, in which “[o]riginality merely requires independent creation by the author and just a scintilla of creativity.”[[46]](#footnote-46)

While this history of photography is instructive, there is a key difference in generative AI works that could threaten to swallow any rule if left unexamined. Simply put, it does not matter much that all photographs receive a copyright at the moment of their creation. The commercial and artistic success of any photograph relies entirely on the efforts of the creator. Conversely, the billions of photos created for non-commercial and non-artistic reasons do little harm to professionals. One tourist’s photo of the Arc de Triomphe does not stop later photographers from taking later photos, which benefits professional photographers who may be able to make their living capturing famous monuments around the world. There are still times when amateur photographers encroach on commercial spaces, but most of the work continues to go to professionals who rely on photography to earn a living.

However, generative AI works can encroach on the commercial space with much less creativity and with much less investment (one does not even need to travel). And as costs of generation come down, one can imagine large sectors of art becoming landmine fields of potential infringement. Similar to how two activist musicians generated every melody to release into the public domain, it is possible that other areas of art could receive this treatment (although perhaps to genuinely nefarious ends).

While there are ways to use generative AI that involve a lot of creativity, it can be very difficult to sort those uses from those that lack the “scintilla of creativity” necessary for copyright. And even if a clear enough line can be drawn, the costs to apply such a line to determine copyrightability, at scale, might be outside of the current budget of the Copyright Office. Unfortunately, solving these problems of copyrightability might require an iterative approach where imperfect solutions are adopted and improved over time. We caution against outright dismissing AI output copyrightability just as we caution against allowing the market to be flooded with copyrighted AI works to the detriment of artists.

**V. Work for Hire**

Copyright was established to reward human innovation through economic protection, not economic exploitation. Corporations have crossed this line under the current copyright regime as evidenced by the harms described above. Applying a general standard for AI-copyrightability may exacerbate the extreme power imbalance between corporations and independent artists. Thus, we suggest that if the U.S. Copyright Office awards copyright for AI-generated works, it should award copyright to individual artists, not corporations. We do not seek to resolve how the Office will determine when to award copyright in AI-related works. We only suggest they consider copyright applications differently based on the author’s identity.

To distinguish corporations and individuals, we suggest utilizing a well-integrated aspect of copyright precedent, works made for hire. Per the U.S. Copyright Office: A copyrightable work is “made for hire” in two situations. First, when an employee creates a work in the course of their regular duties. Second, when an individual creates a work through a contractual agreement special ordering the work. Works created under made for hire entitle the corporation or hiring person to the work’s copyright.

We propose that works created using AI-software under made for hire have a presumption of no copyrightability. Similar to the “de minimis” standard articulated in the Jason Allen decision, corporations would have the burden of proof to demonstrate that humans originated the work, and the AI-software was merely a tool in the work’s creation to get copyright.[[47]](#footnote-47)

In aiming to distinguish corporate and individual interests, work for hire neatly draws the line. Section 2 of the copyright registration forms asks: “Was this contribution to the work a ‘work made for hire’?” Applicants check “yes” or “no.”[[48]](#footnote-48) This inquiry makes the administrability of the presumption quite easy for the Office. Based on the checked box, the Office makes the proper presumption of copyrightability.

Work for hire grants the copyright ownership to the corporate entity, not the work’s artist. Therefore, work for hire also targets the corporate entities we seek to apply stricter guidelines to regarding AI usage. Work for hire also contributes to wealth distribution issues with the original artist getting a paycheck and corporations getting the lion’s share: the revenue generated from that work.[[49]](#footnote-49) Fight for the Future hopes that establishing the proposed differential will disincentivize corporations from using work for hire and restore copyright ownership to artists.

A copyright regime that treats work for hire works differently is not entirely novel. The Visual Artists Rights Act of 1990 (VARA) applied different “moral rights” to works created independently and those done through made for hire. VARA attempts to protect visual artists’ “moral rights” to their works by granting artists the right to claim or disclaim authorship in a work and the right to prevent the destruction of their visual artworks. 17 U.S.C. § 106A.

Based on the Berne Convention for the Protection of Literary and Artistic Works, VARA was born out of financial tension between artists and corporations.[[50]](#footnote-50) The Act went under way when many shared in the sentiment that the “American copyright system does not enable them to share in any profits upon resale of their works.”[[51]](#footnote-51) VARA, as we propose for AI-copyrightability, has a carve out for “made for hire” works. As 17 U.S.C. § 101 provides: “A work of visual art does not include [...] (B) any work made for hire.” Congress reasoned that works for hire are more likely to be mass produced and thus not covered by VARA. Congress also found most works looking to be covered under VARA are usually not made for hire.[[52]](#footnote-52)

Congress permits artists under VARA to contract away their rights under licensing agreements. Two studies by the Copyright Office conducted eighteen months after VARA’s passage revealed that nearly 25% of artists protected under VARA knew of artists who were asked to waive their rights. And 13% reported they refused contracts due to waivers.[[53]](#footnote-53) These survey results highlight how corporations can be contractually aggressive with individual artists, working to circumvent artists’ protections by obtaining greater control over their visual art. In this comment, we will not explore further how licensing schemes work in tandem with copyright to further exploit and undermine the creative livelihoods of artists, other than to name this dynamic as yet another significant problem that might be supercharged by generative AI.

Overall, threats to individual artists amid the evolution of generative AI are only growing more varied and complex. Some scholars have proposed broadening the definition of “employee” under 17 U.S.C. 101 to include AI.[[54]](#footnote-54) Further explained by Kalin Hristov, the process consists of assigning the AI generated work to a human author by “employing a relative interpretation of terms “employee” and “employer” within the made for hire doctrine.”[[55]](#footnote-55)

This proposal is inconsistent with current copyright law. In *Creative Non-Violence v. Reid*, the Supreme Court held “employee” under 17 U.S.C. § 101 must be considered in accordance with agency law.[[56]](#footnote-56) The Court determined the work of an independent contractor did not fall under “work for hire” as the contractor utilized his own tools and retained command of the project.[[57]](#footnote-57) Whereas agency law requires, “the hiring party's right to control the manner and means by which the product is accomplished.”[[58]](#footnote-58) A non-human is not considered an agent within agency law.  Further, in Naruto v. Slater, the 9th Circuit established a clear anthropocentric requirement for copyright entitlements.[[59]](#footnote-59) Finding the work belonged in the public domain and copyright could not be transferred to David Slater.

Further, granting AI “employee” status may significantly decrease or effectively eliminate the need for human artists as corporations can seek complete copyright entitlements with AI employees under made-for-hire. Such a proposal threatens to stifle the human ingenuity that undergirds copyright. There is potential for additional substantial legal repercussions in considering a non-human, non-living software an “employee.”

**VI. Privacy Concerns in Generative AI Labeling**

Fight for the Future urges the Copyright Office not to adopt upstream labeling or provenance requirements for AI-generated content. Recent scholarship has suggested a system of “nutrition-facts labels” for AI and Machine Learning health tools[[60]](#footnote-60) and content.[[61]](#footnote-61) However, the Copyright Office must carefully balance privacy interests in this space, ensuring that labeling requirements do not require content creators, editors, or users to sacrifice their intimate personal data that may physically endanger them as a price for admission of utilizing generative AI.

As a conceptualization of labeling requirements, one can think broadly of labels as either upstream or downstream. An upstream label would be one that is placed upon an AI-generated work as it is created or before it is distributed in the flow of commerce and media. Generally, such a label is proposed to attach itself permanently to the work in some manner, either through a digital watermark or more advanced encryption system, such as the digital provenance proposed by the Coalition for Content Provenance and Authenticity (C2PA).[[62]](#footnote-62) A downstream label would be one that would be placed upon the work after its creation, once it enters into the flow of commerce and it is sold, advertised, or otherwise shared with the public. A number of large tech companies have begun to develop proprietary means to identify AI-generated content, and some have already begun beta testing a downstream labeling system.[[63]](#footnote-63)

Fight for the Future is deeply concerned about the kinds of private information that could be gathered and encrypted onto a piece of AI-generated content that receives upstream labeling. A system of the kind suggested by C2PA “works by encoding provenance information through a set of hashes that cryptographically bind to each pixel.”[[64]](#footnote-64) This provenance information would then interact with hosting sites, generating a pop-up that indicates that the image was generated with AI.[[65]](#footnote-65)

However, this provenance is not merely an indication that the product was generated using a particular AI. Rather, it contains a set of “Content Credentials” which include “secure metadata about [a work’s] creation, authorship and edit history.”[[66]](#footnote-66) This content could contain potentially sensitive private information—a fact that C2PA recognizes in its own Guiding Principles.[[67]](#footnote-67)

In a high-risk system, labeling could incur significant harm to users. If an AI or labeling system, for the sake of labeling, collects even the most seemingly-anonymous information, such as IP addresses and times of edits, accessors to that information would be able to identify the locations the works were made, and from that, their creator. Take for example, the recent trend of creating memes comparing Xi Jinping to Winnie the Pooh.[[68]](#footnote-68) If a protester wished to use generative AI to create protest materials against Xi Jinping, his or her metadata would be encoded in every pixel of the image. Anonymous posts, or even reposts of that content to another website, would carry metadata that would enable the location and arrest of that creator.

This situation is made worse by the fact that larger companies that use generative AI can adopt the C2PA system wholesale. For example, Shutterstock has joined as a member and announced its intention to use C2PA to label all content generated by its AIs, including the highly popular DALL-E-powered AI image generator.[[69]](#footnote-69) While C2PA’s guiding principles require informed consent and an ability for “content creators, editors and publisher to remove sensitive information before sharing with others” it is unclear how this consent and opt-out will be implemented.[[70]](#footnote-70) Furthermore, there is no requirement for opt-out of the initial information gathering—only to publishing it.[[71]](#footnote-71) Continuing the above hypothetical, even the protestor that opts out of publishing their sensitive information could still be found and arrested via a subpoena to the private company for the metadata.

Opt-out systems are inefficient in protecting the privacy of users. Due to well-documented dark patterns,[[72]](#footnote-72) opt-out systems for privacy data are ineffective in allowing users to protect their own privacy.[[73]](#footnote-73) Limited awareness in people using generative AI, combined with smart disclosure and opt-out design can make it highly unlikely that people will be able to engage in opting-out of this data collection and broadcasting.[[74]](#footnote-74) Notably, C2PA does not specify how they will obtain informed consent or permit users to opt-out. Here, where companies will—regardless of opt-out—gather a person’s sensitive data to authenticate authorship and provenance, such a system should not be followed. This is made worse by the fact that this information will then be available to an unknown number of subsequent viewers of the content.

A user’s privacy cannot be the price of admission. Due to the above significant privacy concerns, Fight for the Future urges the Copyright Office not to adopt an upstream labeling or provenance requirement of the kind suggested by C2PA.

**VII. Conclusion**

In sum, the Copyright Office should take this opportunity to act as a guardian of legal protections for individual human artists and creators. While the challenges posed by generative artificial intelligence are in many respects novel and dynamic, they also implicate many of the same issues that the Office has historically confronted in an insufficient way that has allowed corporate interests to erode human ingenuity and the dignity of artists. Protection of creators and artists has long been insufficient to achieve the constitutional mandate “to promote the progress of science and useful arts.”[[75]](#footnote-75) Regardless of the complexity of questions raised by new forms of media and expression, we urge the Office to account for the existing harmful dynamics our copyright system enables and act for the interest of individual human artists with respect to the advent of generative AI.

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1. For more on our position, please visit<https://www.endcreativemonopolies.com/> [↑](#footnote-ref-1)
2. U. S. Constitution, Article 1, Section 8, Clause 8. [↑](#footnote-ref-2)
3. See Kevin Roose, “A.I.-Generated Art Is Already Transforming Creative Work.” *The New York Times*. Oct. 21, 2022.<https://www.nytimes.com/2022/10/21/technology/ai-generated-art-jobs-dall-e-2.html>; Thomas H. Davenport and Nitin Mittal, “How Generative AI Is Changing Creative Work. *Harvard Business Review.* Nov. 14, 2022.<https://hbr.org/2022/11/how-generative-ai-is-changing-creative-work> [↑](#footnote-ref-3)
4. For an introduction to a handful of prominent controversies, see Ryan Prior, “When it comes to artists losing the rights to their songs, Taylor Swift is Hardly alone. *CNN*. July 2, 2022.<https://www.cnn.com/2019/07/01/business/taylor-swift-rights-trnd/index.html>; Michael Cader. “Second Quarter Deals Remain Very Strong.” *Publishers’ Marketplace*. July 8, 2021.<https://lunch.publishersmarketplace.com/2021/07/second-quarter-deals-remain-very-strong/>; Jo Livingstone, “Monopolization Is Killing Art.” *The New Republic*. Dec. 22, 2020.  <https://newrepublic.com/article/160715/monopolization-killing-art>; Alison Flood, “DisneyMustPay: authors form task force to fight for missing payments.” *The Guardian*. Apr. 28, 2021. <https://www.theguardian.com/books/2021/apr/28/disneymustpay-authors-form-task-force-missing-payments-star-wars-alien-buffy> [↑](#footnote-ref-4)
5. Broadly, answering Question 2: Does the increasing use or distribution of AI-generated material raise any unique issues for your sector or industry as compared to other copyright stakeholders? [↑](#footnote-ref-5)
6. Broadly, addressing Question 18: Under copyright law, are there circumstances when a human using a generative AI system should be considered the ‘author’ of material produced by the system? If so, what factors are relevant to that determination?” [↑](#footnote-ref-6)
7. Addressing Question 28: Should the law require AI-generated material to be labeled or otherwise publicly identified as being generated by AI? If so, in what context should the requirement apply and how should it work? [↑](#footnote-ref-7)
8. Nick Wyatt, “What Is A Creative Monopoly & Why You Should Start One.” Medium. Apr. 28, 2020.<https://nwyatt227.medium.com/what-is-a-creative-monopoly-why-you-should-start-one-53db0729aedb> [↑](#footnote-ref-8)
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10. Samantha Delouya, “Why celebrities are striking: The average pay for actors may surprise you.” CNN Business. July 17, 2023. <https://www.cnn.com/2023/07/17/business/hollywood-actors-sag-aftra-strike-by-the-numbers/index.html#:~:text=Actors%20say%20that%20the%20calculation,re%20making%20significantly%20less%20money> [↑](#footnote-ref-10)
11. Michelle Kaminsky, “Arbitrator Orders Fox To Pay $179M For ‘Reprehensible Conduct’ Concerning ‘Bones’ Licensing Agreements.” Forbes. Feb. 28, 2019.<https://www.forbes.com/sites/michellekaminsky/2019/02/28/arbitrator-orders-fox-to-pay-179m-for-reprehensible-conduct-concerning-bones-licensing-agreements/?sh=7d28fbc073d1> [↑](#footnote-ref-11)
12. Flood, “DisneyMustPay.” *The Guardian*. *supra* Note 4. [↑](#footnote-ref-12)
13. Julia Stoll, “Netflix’s annual revenue from 2002 to 2022.” *Statista*. Feb. 14, 2023.<https://www.statista.com/statistics/272545/annual-revenue-of-netflix/>; Julia Stoll, “NBCUniversal’s revenue worldwide from 2015 to 2022.” *Statista*. Jun. 15, 2023. <https://www.statista.com/statistics/817897/nbcuniversal-revenue/#:~:text=NBCUniversal’s%20revenue%20reached%2039%20billion,decline%20in%20the%20previous%20years> [↑](#footnote-ref-13)
14. Concepción de León and Elizabeth A. Harris, “#PublishingPaidMe and a Day of Action Reveal an Industry reckoning.” *The New York Times.* June 10, 2020. <https://www.nytimes.com/2020/06/08/books/publishingpaidme-publishing-day-of-action.html> [↑](#footnote-ref-14)
15. *Id.* [↑](#footnote-ref-15)
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