

Submission to *Supporting Responsible AI*

We are at an early crossroads in Artificial Intelligence (AI). A crucial (but underappreciated) decision is how we allow generative AI to use language-based intellectual property: copyright, trademarks, and even our personal names.

If AI is allowed person-like "fair use" of copyrighted material (such as news) and trademarks (brand names), enormous amounts of advertising money will flow into leveraging AI for ethically fraught purposes. This has already happened once. Google has grown to a US\$1.5 trillion-dollar company in just this way.

In Japan and the United States, several important intellectual property law precedents have already asserted AI's right to use copyrighted material and trademarked terms.

I urge in the strongest terms that copyright and trademark rights in Australia be protected from indiscriminate use by AI.

A simple way to do this is to disallow, through intellectual property law, non-human "fair use" right of copyright or trademarks. Instead, allow AI to use copyrighted material and trademarks *only* when explicit opt-in permission is granted by the owners.

In my academic experiments with generative AI, I have confirmed that the technology is already largely aware of what is copyrighted or trademarked. For example, ChatGPT is able to accurately append trademark symbols to relevant words in context. AI, therefore, has the capability to police itself in this regard. No genuine obstacle to implementation exists.

Furthermore, and soberingly, an **absolute right** must be preserved for individuals to object to their personal, human name being used by AI. This, in fact, is the most essential safeguard against AI that can be devised.

For further information, I have published a paper on the monetisation of internet search via our outdated trademark system and provide details below.

I look forward to future opportunities to contribute to fora and consultative bodies working towards Responsible AI in the area of intellectual property.

Yours sincerely,

Dr Cameron Shackell

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References

Shackell, C. (2023) Is Genericness Still Adequately Defined? Internet Search Firms and the Economic Rationale for Trademarks. *Science, Technology, & Human Values*, 48(3), pp. 582-605.