# Precedent

We are not lawyers, and this is not legal advice. Copyright gives you legal authority around a work you developed. In the case of the United States of America copy right requires ratification by the US Copyright Office. In some cases, it’s obvious who owns the copy right such as if you take a photo you do. Other commons cases are that of a company contracting an artist to develop artwork which makes the copyright based on their contract. But the intricacies come into view when we look at examples like a monkey taking a selfie. In this case David J. Slater set up all of the equipment so that a monkey could take a selfie. It seems like he put in creative effort and set up all of this so he should own copy right of the images. Yet Wikimedia decided to host the images on their website which normally would violate copyright law unless they got a license.

The ensuing court case brought into question who owned this with many varying opinions. David J. Slater obviously thought he owned it as he did almost all of the work though Wikimedia believed that copy right can only be held my humans and the monkey is the one who the copy right would go to. Due to that copy right is null and the image becomes public domain, but PETA wanted to argue that animals are able to hold copyright. Experts at the time believed that David J. Slater had put in enough create effort for him to have copyright of the image. Yet this isn’t what happened the copy right office released an opinion letter that only humans can have copyright. This was enough to sway the court into deciding that it fell into the public domain. From here PETA had another case later to try and ratify that animals could own copy right, but this was shut down under previous precedent that only humans can hold copy right. This case is very similar to generative AI as we see an exploitation of an entity outside the scope of the law.

# Generative AI Cases

As generative AI has risen in popularity, we have seen many casual people experiment with it and flood the internet with works. In some cases, they have attempted to copyright work that is either written by or co authored by generative ai. One such case is the comic Zarya of the Dawn where on the initial copyright the author claimed it was all their original work. Post getting fully copyright they bragged on social media that hey had copyrighted generative AI content. This led to a re-evaluation of the copy right if the work.

In this revaluation they stated the work must be independently created by the author and must possess sufficient creativity. Due to previous precedent and this it restricts copyright specifically to humans. The office stated that due to the fact that Midjourney doesn’t follow your prompt exactly you have limited influence over it to express your creative vision hampering the ability to argue that the prompts count as creative work. Due to this its very hard to develop your desired out put so according to the author it took a year to develop the images and despite that they still needed to edit them to fix imperfections. But the office of copyright did not determine this as creative effort in either the prompts or fixing imperfections left by the AI. This leaves the work in a weird state of copyright where the text, plot, and layout are all considered creative for copyright, but the images of the comic aren’t.

To further reinforce their stance the copyright office initialized an investigation into generative ai that will produce three sections. At this time the third section on copyright in relation to training models has been published but the other two sections have. They established that like the invention of photography or computer aided designs currently copy right law is enough to determine the copyrightability of AI works. Though struggles when AI is used as a tool to assist creative works which blurs the line like previous technologies. We see that in 2022 the copy right office confirmed that if a human isn’t involved it can’t be copyrighted under US law. Part of the issue with generated images according to the report is they aren’t reproduceable in these systems most don’t have seeds and even if they do have seeds for randomness, they fail to output the exact same image consistently. There is an argument that in the future generative ai prompts could be considered creative works if they directly followed the prompt but currently, they take parts of the prompt and leave others.

As for using it as an assistive work it depends if the work is considered large and the contributions of generative ai are small then the whole can fall under copy right. We see this most commonly with films such as the Brutalist which used generative ai for sections but still falls under copy right. But in general, these systems are black boxes especially for the average user who doesn’t know about backwards propagation or any more complex forms of training that allow these models to be developed. These models while can be edited should fall under the same rules as the copyright of a derivative work which requires substantial changes for it to fall under new copy right. We also see very similar policies globally with most only becoming more extreme and clearer that generated content is not able to be copywritten. Though there is legislation coming that may change this the UK proposed a law that would bypass the copyright issues of training these models and allow them to ignore copyright law.

# Ethics

# Personal Opinions