

# AI 應用可能衍生之風險與法律問題

v.20250517

CC Taiwan Chapter Lead / CC 台灣計畫主持人

群牧開源管理顧問有限公司 / 鈞理知識產權事務所 法制顧問

Legal Adviser @ Herding Open Source Management Consultants Ltd. & Gemly Int'l IPR Office

林誠夏 / Lucien Cheng-hsia Lin Email: lucien.cc@gmail.com

LinkedIn: <https://tw.linkedin.com/in/lucienchlin>

臺北市政府資訊局 - 數位課程 2025.05.27

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# 林誠夏 / Lucien C.H. Lin

1. 群牧開源管理顧問有限公司 / 鈞理知識產權事務所 法制顧問
2. CC Taiwan Chapter Lead 、台灣開源法律網絡 -OSLN.tw 共同創辦人
3. 歷任：行政院、國發會、文化部、故宮博物院、考試院、銓敘部政府資料開放諮詢小組會議委員
4. 臺北市政府公共參與組市政顧問
5. 究心公益股份有限公司獨立董事

**公務應用實作的角度**

**淺探生成式 AI 與著作權利的正確認知及**

**產出素材的資源應用與正確引註**

# 大綱

- 1. 隱私或應保密資訊外洩的風險
- 2. 生命倫理或人類尊嚴跨越邊際的風險
- 3. 著作抄襲的風險
- 3.1. 著作權法的保護標的
- 3.2. 避免產生著作表達的實質近似
- 3.3. 理解並掌握個案上的合理使用
- 4. 正確採用 AI 以協助創作
  - 4.1. 工具性的使用與輔具性的分工
  - 4.2. 遊戲規則的尊重與遵守
  - 4.3. 建議的妥適標示元素



“Reference illustration” by Lucien C.H. Lin, AI generated using ChatGPT 4o,  
dedicated to the public domain under CCO-1.0, created on April 11.

# 1. 隱私或應保密資訊

外洩的風險



認識行政院 + 新聞與公告 + 政策與計畫 + 資訊與服務 + 便民服務 + 任務編組

首頁 > 政策與計畫 > 院會議案

政策與計畫

## 院會議案

施政方針與報  
告

院會議案

重要政策

政策櫥窗

重要施政成果



### 行政院及所屬機關(構)使用生成式AI參考指引

日期：112-08-31 資料來源：教育科學文化處

有鑑於生成式AI可以協助政府在處理業務或提供服務時提升效率，也期望各行政機關在使用生成式AI的同時，能保有執行公務之機密性及專業性，因此訂定「行政院及所屬機關(構)使用生成式AI參考指引」（以下簡稱本指引），揭



1



2

互動。

### 三、製作機密文書應由業務承辦人親自撰寫，禁止使用生成式 AI。

前項所稱機密文書，指行政院「文書處理手冊」所定之國家機密文書及一般公務機密文書。

四、業務承辦人不得向生成式 AI 提供涉及公務應保密、個人及未經機關（構）同意公開之資訊，亦不得向生成式 AI 詢問可能涉及機密業務或個人資料之問題。但封閉式地端部署之生成式 AI 模型，於確認系統環境安全性後，得依文書或資訊機密等級分級使用。

五、各機關不可完全信任生成式 AI 產出之資訊，亦不得以未經確認之產出內容直接作成行政行為或作為公務決策之唯一依據。

六、各機關使用生成式 AI 作為執行業務或提供服務輔助工具時，應適當揭露。

# 「臺北市政府使用人工智慧作業指引」

113 年 9 月 9 日府資創字第 11330102301 號函頒

<https://tinyurl.com/3b2wmx54>

使用人工智慧涉及機敏性資料、公務上應保密資料或未經本府同意公開的資料，或未符合法律規範且未經事前同意即使用人工智慧處理或利用民眾之特種個人資料，或未經人工檢視與確認即使用人工智慧直接做成影響民眾權利義務之決定者，通常屬於絕對禁止事項，例如：

1. 當使用人工智慧涉及機敏性資料、公務上應保密資料或未經本府同意公開的資料時，除非使用本府自建或不對外聯網之地端機房，或相同資安防護等級之自控機房，於確認系統安全後再依機密等級分級使用，否則絕對禁止。
2. 未符合法律規範且未經人民之事前同意使用人工智慧對民眾進行人臉、指紋或其他生物特徵之辨識。
3. 未符合法律規範且未經人民之事前同意，使用人工智慧之輸入內容包含民眾之病歷、醫療、基因、性生活、健康檢查或犯罪前科等特種個人資料。 <https://tinyurl.com/3b2wmx54>
4. 未經人工檢視與確認，使用人工智慧直接做成影響民眾權利義務之行政或法律處分。



數位發展部資通安全署

Administration for Cyber Security, moda

EN ⌂

## 訊息公告

## 公務機關全面禁用DeepSeek AI服務，未限制一般民間使用



政府資訊公開



最新消息



- 新聞稿

- 活動紀要

- 影音專區

廉政專區



資安月報

政府資通安全防護巡迴

發稿日期：114年2月20日

新聞聯絡人：李昱緯主任 0920-072628



基於防範公務機關資安風險等考量，行政院已宣布公務機關立即全面禁用 DeepSeek AI 服務，包含雲端服務、APP 及地端下載等方式，公務機關皆不得使用。惟考量適法性與可行性等影響因素，目前未進一步限制業者提供民眾下載及使用，數發部並提醒使用時應注意可能之資安及隱私風險。

數發部表示，有關中國「杭州深度求索人工智慧基礎技術研究有限公司」所發布 DeepSeek AI 服務產品，觀察目前世界各國採取之應對趨勢，包括民間與公務機關全面禁止及公務機關全面或部分禁止使用，其中多數又以限制公務機關使用為主要應對措施。目前有2個國家限制民間使用特定服務類型。

數發部強調，臺灣是法治國家，政府機關依法行政是法治國家的基本原則，未來是否進一步限制業者提供民眾下載及使用，將視有無違反個資法等相關法規規定。政府將持續關注 DeepSeek 議題，並提醒民眾要注意相關風險。

<https://moda.gov.tw/ACS/press/news/press/15296>

~~DeepSeek AI APP~~

雲端伺服（資料跨境傳輸）

DeepSeek AI Model

離線架設 (AI alignment)

# 將病人影像作為 model 的學習資料，如何杜絕個資外洩或技術外流？

區隔、個人資料的去鏈化、法務部法律字第 10603512680 號、GDPR  
視應用環境、有**準開源**的 AI Models 、亦有**閉源**的 AI Models  
得到當事人同意、或承擔更大的公益目標 -- 例如 COVID

E The use of generative... x +

elsevier.com/about/policies-and-standards/the-use-of-generative-ai-and-ai-assisted-technologies-in-the-review-process

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# The use of generative AI and AI-assisted technologies in the review process for Elsevier

<https://www.elsevier.com/about/policies-and-standards/the-use-of-generative-ai-and-ai-assisted-technologies-in-the-review-process>

This policy aims to provide greater transparency and guidance to authors, editors and reviewers in relation to generative AI and AI-assisted technologies. Elsevier will monitor ongoing developments in this area closely and will adjust or refine the policy as appropriate. The following guidance is specifically for reviewers.

When a subject matter expert is invited to participate in the review process, the material/manuscript must be treated as confidential. Reviewers should not upload the material/manuscript or any part thereof into a generative AI tool as this may violate Elsevier's and/or the authors' confidentiality and proprietary rights and, where the material/manuscript contains personally identifiable information, may breach data privacy rights.

This confidentiality requirement extends to all communication about the material/manuscript including any reviewer questionnaires, reports, or correspondence, as these may contain confidential information about the material/manuscript, Elsevier and/or the authors. For this reason, reviewers should not upload their communications or any related material into an AI tool, even if it is just for the purpose of improving language and readability.

Elsevier abides by the highest standards of integrity in the review process which implies responsibilities that can only be attributed to humans. Generative AI or AI-assisted technologies should not be used by reviewers to assist in the review of the material/manuscript as the critical thinking and original assessment needed for review is outside of the scope of this technology and there is a risk that the technology will generate incorrect, incomplete

**若無法確定保密**

**不能用 AI 工具來協助審稿**

**別人的個資、別人的機密**

**理解可能的後果**

**負責任的進行決斷**

**自己的個資、自己的機密**



## 貼文

回覆



...

Sam Altman   
@sama

we have greatly improved memory in chatgpt--it can now reference all your past conversations!

this is a surprisingly great feature imo, and it points at something we are excited about: ai systems that get to know you over your life, and become extremely useful and personalized.

翻譯貼文

上午1:13 · 2025年4月11日 · 175.5萬 次查看

chatgpt現在會紀錄對話過程了，對嗎？

是的，ChatGPT 現在具備了記憶功能，能夠記住並參考你過去的對話內容，以提供更個人化的回應。這項功能於 2024 年首次推出，並在 2025 年 4 月進行了重大升級。目前，ChatGPT 的記憶功能包含兩種形式：

[Yahoo新聞 +2](#)

[ExplainThis](#)

- 使用者儲存的記憶：**你可以手動要求 ChatGPT 記住特定資訊，例如你的名字、  
詢問任何問題



深入研究

...



GitHub Copilot · Your AI p × GitHub Copilot Telemetry × +

https://docs.github.com/en/github/copilot/github-copilot-telemetry-terms

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## GitHub Copilot Telemetry Terms

Acceptance of the additional telemetry described below is a condition to joining the wait list for the technical preview of GitHub Copilot and using GitHub Copilot during the technical preview.

### Additional telemetry

If you use GitHub Copilot, the GitHub Copilot extension/plugin will collect usage information about events generated by interacting with the integrated development environment (IDE). These events include GitHub Copilot performance, features used, and suggestions accepted, modified and accepted, or dismissed. This information may include personal data, including your User Personal Information, as defined in the [GitHub Privacy Statement](#).

This usage information is used by GitHub, and shared with Microsoft and OpenAI, to develop and improve the extension/plugin and related products. OpenAI also uses this usage information to perform other services related to GitHub Copilot. For example, when you edit files with the GitHub Copilot extension/plugin enabled, file content snippets, suggestions, and any modifications to suggestions will be shared with GitHub, Microsoft, and OpenAI, and used for diagnostic purposes to improve suggestions and related products. GitHub Copilot relies on file content for context, both in the file you are editing and potentially other files open in the same IDE instance. When you are using GitHub Copilot, it may also collect the URLs of repositories or file paths for relevant files. GitHub Copilot does not use these URLs, file paths, or snippets collected in your telemetry as suggestions for other users of GitHub Copilot. This information is treated as confidential information and accessed on a need-to-know basis. You are prohibited from collecting telemetry data about other users of GitHub Copilot.

<https://docs.github.com/en/github/copilot/github-copilot-telemetry-terms>

# Github Copilot → Suggestion

(1) **telemetry** data( 程式寫作偵測資料的收集 )

(2) 專利演算法

(3) telemetry 功能**可關閉但必須權衡取捨**

## 2. 生命倫理或人類尊嚴

跨越邊際的風險



Reference illustration by Lucien C.H. Lin, AI-generated using ChatGPT 4o, dedicated  
to the public domain under CCO-1.0, created on April 11, 2025.

# 歐盟人工智慧法 (2024 年第 3 季已公布 2 年內分期生效 )

## Artificial Intelligence Act

1 、風險分級

2 、 unacceptable risk 、 high risk 、 low risk 、 minimal risk

3 、明確禁止、公務監管、透明揭露、自我管理

EU AI Liability Directive: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0496>

Directive on liability for defective products: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0495>

Artificial Intelligence Act: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206>

# 歐盟人工智慧法 (2024 年第 3 季已公布 2 年內分期生效 )

## Artificial Intelligence Act

1. Risk-based approach-- 風險分級

2. Prohibited uses-- 高度風險事務禁止全面仰賴 AI

3. Foundation models— 基礎模型及訓練素材應審查揭露

4. Fundamental rights-- 基本人權之維護

5. Enforcement mechanism-- 行政罰、相關權利維護之協助

6. Governance structure-- 設立專責監管組織

列為應受監管的特許行業

Global AI Regulation

google.com/maps/d/u/0/viewer?mid=1grbvr9Ic-qj-LTC9DHqpdzi2M-mtxl4&femb=1&ll=0.7236524829134962%2C26.54296875&z=2

F Global AI Regulations ... Fairly AI Sales Team

Subscribe for updates:  
<https://www.fairly.ai/subscribe-reg-tracker>

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General

- UT - S.B. 332 Extending the Repeal Date of t...
- Council of Europe Framework Convention o...
- US OMB's Memo on Agency AI Use
- United Nations A/78/L.49
- ... 138 more

Generative AI

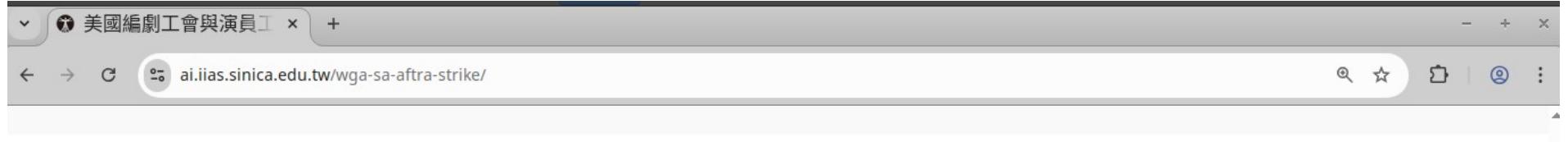
- U.S. - S.4569 - TAKE IT DOWN Act
- University of Virginia - Generative Artificial In...
- US - Whitehouse "Guidance for 2024 Agency...
- East Pennsylvania School District - Use Gen...
- ... 25 more

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FAIR USE @ <https://www.fairly.ai/blog/map-of-global-ai-regulations>



# 美國編劇工會與演員工會之雙重罷工—— 以串流平台與AI為焦點

News -  劉汶渝 -  2023-11-27

TAGS: NORTH-AMERICA, UNITED-STATES

◎ 劉汶渝



<https://ai.iias.sinica.edu.tw/wga-sa-aftra-strike/>

然而**鼓勵**或**管理**的立場

正在議事場上**抗拒**

使用便利與倫理課責

之相輔交集

生成 AI 能用、但必須滾動觀察與修正，來維護人類社會的穩定。

**開放、負責、AI、模型、授權**

**OPEN RAIL-M LICENSE**

**處理人工智慧模型的倫理克責及風險限制**

# 不得：

- (1) 違反國際或當地法規；
- (2) 傷害未成年人或依法應受特別保護之人；
- (3) 製造虛假資訊；
- (4) 用於個人資訊追蹤；
- (5) 用於污蔑、誹謗或騷擾；

# **不要：**

- (6) 偽裝他人身份；
- (7) 侵犯他人合法權利；
- (8) 對特定族群進行歧視或傷害；
- (9) 對特定群體的弱點進行分析並加以傷害；
- (10) 用於法律禁止的專業用途（如醫療或其他法律保留之相關行為等）。

**不可違法、不許害人**

**不要騙人、不能過份**

以人為本的 AI 應用

AI 輔助、人類覆核

# **AI Guardrails/Saferails( 人工智慧安全護欄 )**

- 1. Content Filters 內容過濾**
- 2. Alignment Tuning 立場校正**
- 3. Copyright Similarity 著作比對**
- 4. Legal Compliance 法律合規**

## ▼ FAQs

Get started

**Does GitHub Copilot include a filtering mechanism to mitigate risk?**

Yes, GitHub Copilot does include an optional code referencing filter to detect and suppress certain suggestions that match public code on GitHub.

- GitHub has created a **duplication detection filter** to detect and suppress suggestions that contain code segments over a certain length that match public code on GitHub. This filter can be enabled by the administrator for your enterprise and it can apply for all organizations within your enterprise, or the administrator can defer control to individual organizations.

With the filter enabled, Copilot looks for code that matches public code on GitHub and suggests alternative code that is similar but different enough to be safe.

# Duplication Detection Filter

付費→擔保、無償→無擔保

開啟檢測功能→擔保、不開啟檢測功能→不擔保

### 3. 著作抄襲的風險

# 2023 = AI 訴訟元年

利益之所在、訴訟之所在

以前原則上都亂捉、現在 AI 大公司基本上會看 **robot.txt** 來尊重  
禁止 AI 訓練？→ **metadata**: “*X-Robots-Tag: noai, noindex*”

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text and data mining, AI training, and similar technologies.

# Updated Map of 40 US copyright suits v. AI companies, with transfer of all suits v. OpenAI to Judge Stein.

April 5, 2025

We updated the U.S. map of all copyright cases against AI companies to indicate the transfer of all lawsuits against OpenAI and Microsoft to Judge Sidney Stein in New York. That means Judge Stein presides over all 12 lawsuits against OpenAI and the 11 against Microsoft (the Millette lawsuit is only against OpenAI).

Judge Stein's courtroom in the Southern District of New York is now the epicenter of all AI copyright lawsuits against OpenAI and Microsoft. The MDL panel granted the petition of OpenAI/Microsoft to transfer the cases for pretrial purposes to one MDL court presided over by Judge Stein, who will

# Copyright + Related Lawsuits v. AI Companies

SDNY

## ND California

-  [Kadrey v. Meta; Chabon v. Meta](#)
- [Huckabee v. Meta; Farnsworth](#)
- Judge Chhabria
- [In re OpenAI ChatGPT Litigation \(Tremblay, Silverman, Chabon\)](#)
- Judge Araceli Martínez-Olguín
- [Nazemian v. NVIDIA Corp.](#)
- [Dubus v. NVIDIA Corp. \(related\)](#)
- Judge Tigar
- [In re Mosaic LLM Litigation \(O'Nan; Makkai\)](#)
- Judge Breyer
- [Bartz v. Anthropic](#)
- Judge Alsup
-  [Concord Music. v. Anthropic](#)
- Judge Lee
-  [Doe 1 v. Github, Microsoft, OpenAI](#)
- Judge Tigar
-  [Sarah Andersen v. Stability AI, Deviant Art, Midjourney, Runway AI](#)
- Judge Orrick
-  [In re Google Gen. AI Ltgn. \(Zhang, Leovy\)](#)
- Judge Lee
- [Brave Software v. News Corp.](#)
- Judge Breyer

## D. Col.



- [Pierce v. Photobucket](#)  
Judge Brimmer

## D. Mass.



- [UMG Recordings v. Suno](#)  
Chief Judge Saylor IV

## In re: OpenAI Copyright Infringement Ltgn.

-  [Authors Guild v. OpenAI, Alter, Basbanes](#)
- Judge Stein

- [New York Times v. OpenAI](#)
- [Daily News v. Microsoft](#)

- [Center for Inv. Rep. v OpenAI, Judge Stein](#)

- [In re OpenAI ChatGPT Litigation \(Tremblay, Silverman, Chabon\)](#)
- Judge Stein

- [Raw Story v. OpenAI](#)
- Judge Stein
- [Intercept v. OpenAI](#)
- Judge Stein
- [Millette v. OpenAI](#)
- Judge Stein

-  [Huckabee v. Bloomberg](#)
- Judge Garnett

- [Dow Jones v. Perplexity AI](#)
- Judge Polk Failla

- [Advance Loc. Media v. Cohere](#)
- Judge McMahon

- [UMG Recordings v. Uncharted Labs d/b/a Udio](#)
- Judge Hellerstein

-  [Lehrman v. Lovo](#)
- Judge Oetken

## CD California



- [Alcon Ent. v. Tesla](#)  
Judge Oliver

## Delaware



- [Vacker v. Eleven Labs](#)  
Judge Andrews
- [Thomson Reuters v. ROSS Int.](#)  
Judge Bibas
- [Getty Images v. Stability AI](#)  
Judge Hall

# World Map of copyright lawsuits v. AI (Mar. 29, 2025)

March 29, 2025

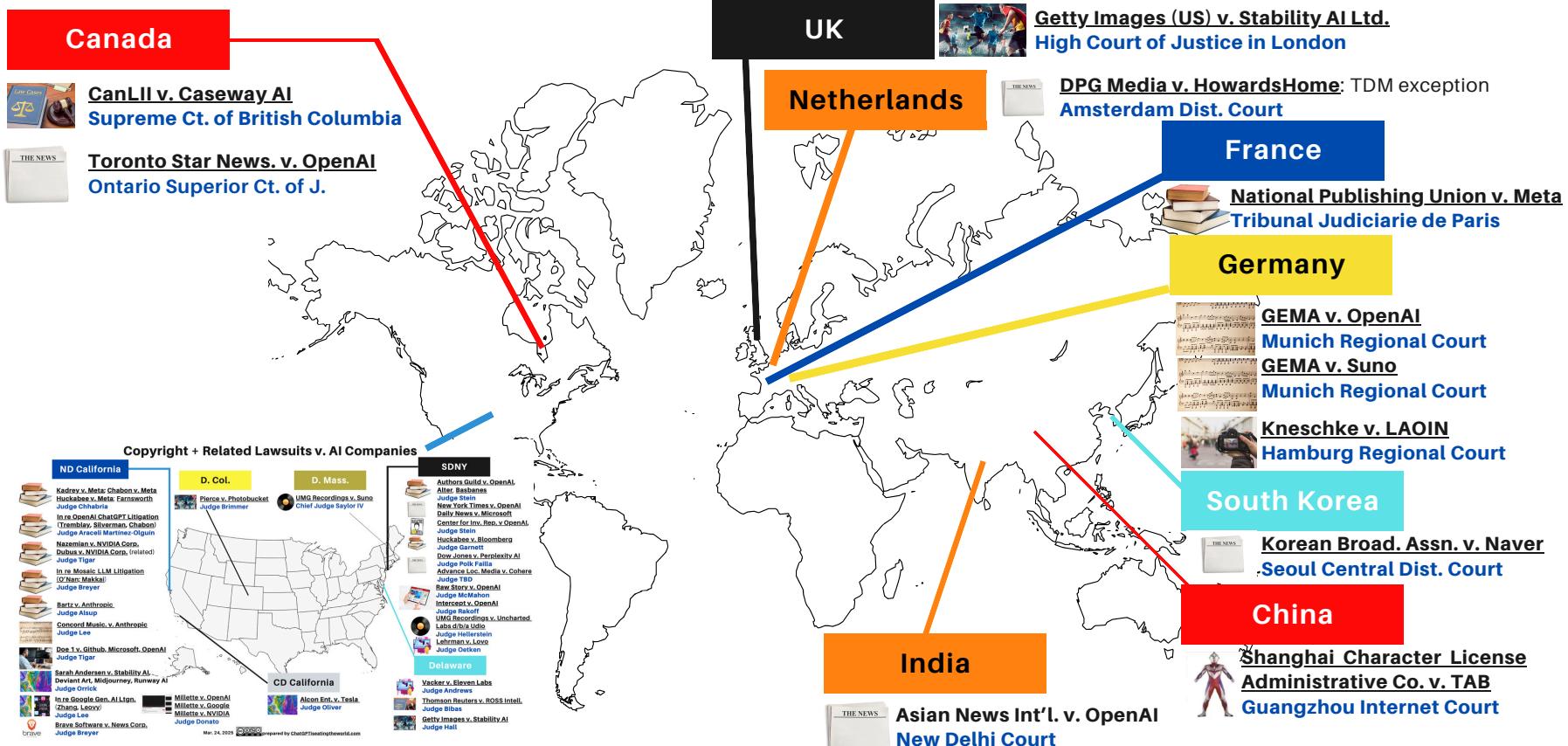
We added cases in the Netherlands and South Korea to our World Map of all copyright lawsuits against AI.

Download the PDF below:



<https://chatgptiseatingtheworld.com/2025/03/29/world-map-of-copyright-lawsuits-v-ai-mar-29-2025/>

# Copyright Lawsuits v. AI Companies



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prepared by [ChatGPTiseatingtheworld.com](http://ChatGPTiseatingtheworld.com)

Mar. 29, 2025



### **3.1. 著作權法的保護標的**

著作權保護標的

僅止於著作的表達（形式）

# 著作權 Copyright

是保護創作表達成果的法律

# **創作保護主義**

**作品於創作完成時自動取得著作權**

**利相關保護、毋須登記、毋須申請**

著作權法第 10 條 著作人於著作完成時享有著作權。但本法另有規定者，從其規定。

<http://law.moj.gov.tw/LawClass/LawSingle.aspx?Pcode=J0070017&FLNO=10>

# 著作權是如何產生和歸屬的？

人為的獨特創意表達產生著作，就可以產生著作權！而基本上依著作權法的預設，創意由誰而生，該人便為該著作之著作人，享有其**著作財產權**與**著作人格權**。

# 著作權保護

客體很**廣**

語言 音樂 戲劇 舞蹈

美術 攝影 圖形 視聽

錄音 建築 電腦程式

其他 .....

**只要是人類的精神創作**

詩、詞、書、畫

影音、多媒體

眼耳感知

五官欣賞

帶有創意的獨特人類精神的表達

文學、科學、藝術、學術範圍

都受到著作權法保護

**重製、散布、出租、改作、公開口述、公開  
播送、公開上映、公開演出、公開傳輸、公  
開展示、再公開傳達；公開發表。**

取得書籍後載入 NotebookLM 進行各項應用？

未經授權、內部使用或主張合理使用之抗辯。

# 著作權法

並不保護「**點子**」！

# 除非您去申請**專利**或是把它當營業秘密！

著作權法第 10-1 條：

<http://law.moj.gov.tw/LawClass/LawSingle.aspx?Pcode=J0070017&FLNO=10-1>

# 著作權法第 10-1 條

依本法取得之著作權，其保護僅及於該著作之表達，而不及於其所表達之思想、程序、製程、系統、操作方法、概念、原理、發現。

## **17 U.S. Code § 102(b) – Subject matter of copyright: In general**

**In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.**

**著作權框架下**

**重新創作 ≠ 抄襲改作**

[分享到FB](#)[分享到g+](#)[分享到Plurk](#)[分享到Twitter](#)

## 北捷封殺12款App 網友怒

「正版太爛 好用的卻被下架」

2013年01月16日

g+ 29



臺北大眾捷運股份有限公司 版權所有  
Copyright © Taipei Rapid Transit Corporation



台北捷運公司要求侵權的App下架。廖祥瑞攝

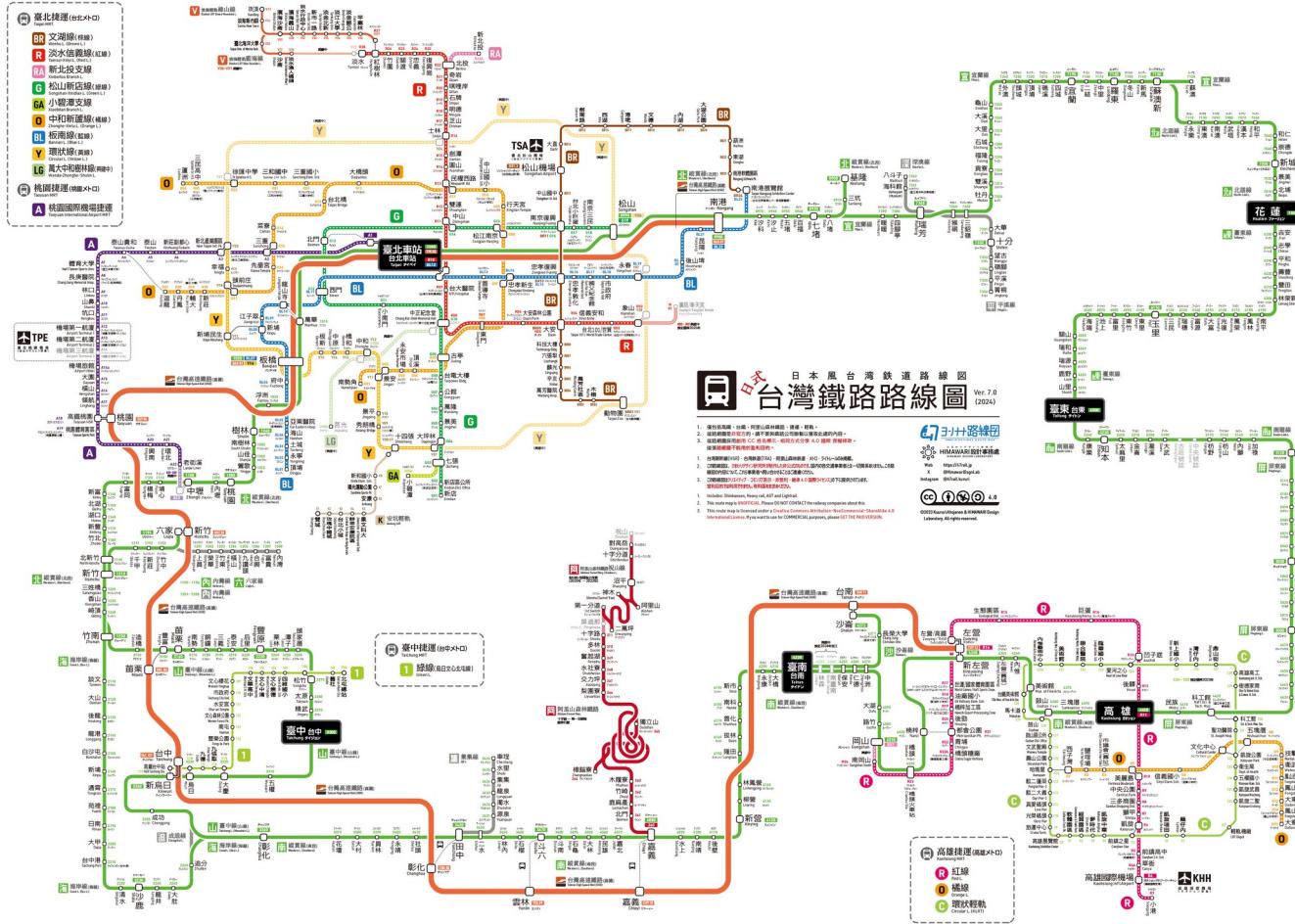
【許麗珍／台北報導】台北捷運公司向手機軟體App業者開鋤，去年底以違反著作權為由，發文要求Google Play與App Store兩下載平台撤除十二款未經北捷授權的捷運網圖App，截至昨日已有五款下架，並籲民眾下載北市交通局正版「台北好行」App。網友砲轟「台北好行」太爛，好用App卻被要求下架。

### 按讚看蘋果 食安問題追追追

網友kenf（肯夫）在台大PTT（telnet://ptt.cc）貼文，指Google Play知名北捷查詢App「台北捷運地圖」遭下架，檢舉的北捷並對涉及侵權的其他同類型十一款App，向軟體商店提出檢舉，引發網友熱烈討論。

Fair Use at: <http://web.metro.taipei/img/all/metrotaipeimap.jpg>

Public Domain for the text at law at: <http://www.appledaily.com.tw/appledaily/article/headline/20130116/34773133/>



# 日式台灣鐵路路線圖"--2024 Ver.7.0

- 1、僅包括高鐵、台鐵、阿里山森林鐵路、捷運、輕軌
- 2、這路線圖是**非官方的**，請不要與鐵路公司聯繫以獲取此處的內容。
- 3、這路線圖採用創用 CC 姓名標示 - 非商業性 - 相同方式分享 4.0 國際授權條款，不能用於盈利目的。

首頁 &gt; 生活

分享至：[f](#) [LINE](#)

# 線條、轉彎角度雷同！ 高捷少女路線圖挨轟抄襲

記者 杜蘊潔 / 攝影 吳忠勳 武紹隆 報導

發佈時間：2016/12/25 17:59

最後更新時間：2016/12/25 19:03



小

中

大



<https://news.tvbs.com.tw/life/695751>

[首頁 > 生活](#)

消耗卡路里的感覺  
嗎？那麼，就跟一  
起跑吧！

## 高捷委製



**不論是誰、都有地位**

**重新畫一張自己的捷運圖**

著作權法第 10-1 條：

<http://law.moj.gov.tw/LawClass/LawSingle.aspx?Pcode=J0070017&FLNO=10-1>

# 個別依概念重新繪圖

沒有著作權上的抄襲

抄 - 重製權、襲 - 改作權

(1) 接觸

(2) 實質相似

最高法院 81 年台上字第 3063 號判決。

認定抄襲之要件有二，即（一）接觸，（二）實質相似。

## 3.2. 避免產生著作表達的

**實質近似** Substantial similarity

TC OpenAI's viral Studio x +

techcrunch.com/2025/03/26/openais-viral-studio-ghibli-moment-highlights-ai-copyright-concerns/ ☆ | ↴ ↵ ⌂ ⌃ :

TechCrunch Latest Startups Venture Apple Security AI Apps | Events Podcasts Newsletters Sign In Search ⌂



AI

OpenAI's viral Studio Ghibli moment highlights AI copyright concerns

Maxwell Zeff — 4:23 PM PDT · March 26, 2025

<https://techcrunch.com/2025/03/26/openais-viral-studio-ghibli-moment-highlights-ai-copyright-concerns/>



"Consideration in AI-Based Transformation of preexisting Works", made in 2025 by the prompt author Lucien C.H. Lin. The image on the left was taken by the prompt author, and the image on the right was generated by ChatGPT-4o in the style of Studio Ghibli, based on instructions provided by the prompt author as well, and is likewise contributed to the public domain under CC0-1.0.

著作權法保護的標的為「表達的形式」

不及於背後的概念、思想

Coding Style, Painting Style, Writing Style

不受著作權保護

技法學習是能被學習的 ○

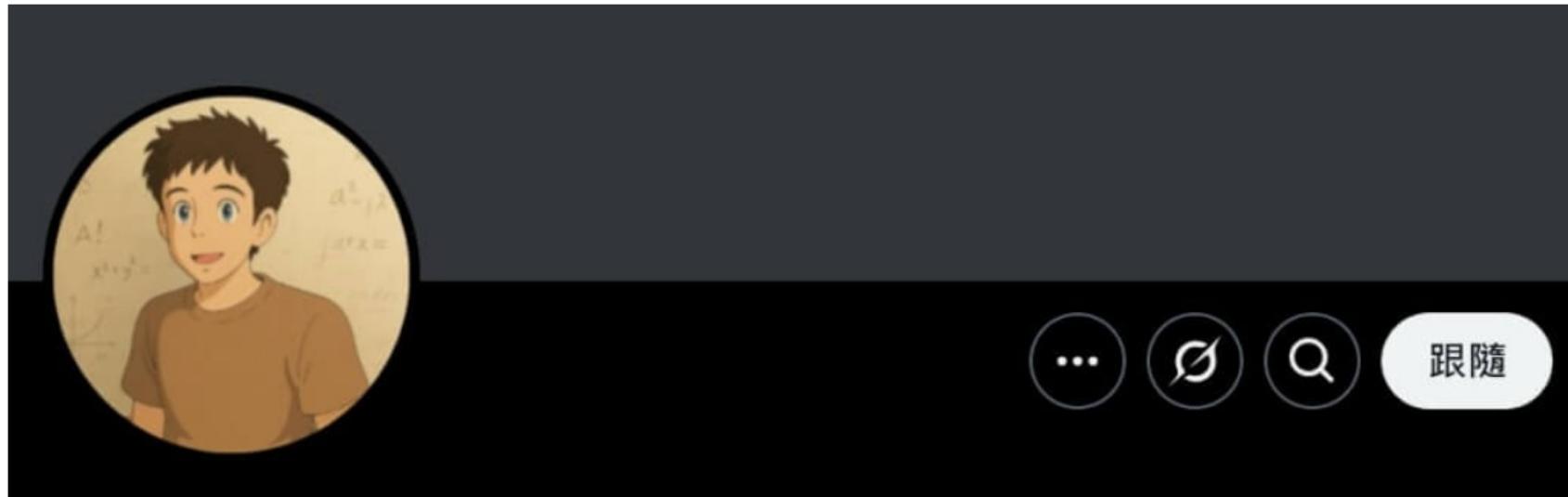
但累積式的抄寫程式碼或文句、圖畫片段 ✗



對等關稅 即時 政治 國際 兩岸 產經 證券 科技 生活 社會 地方 文化 運動 娛樂 影音 >

# 經濟部：AI抄襲或模仿風格若有爭議 由法院個案認定

2025/3/31 15:10 (3/31 15:39 更新)



<https://www.cna.com.tw/news/afe/202503310155.aspx>

**盡量不要構成著作表達形式**

**的直接承襲、傳襲！**



Filmophile

4月24日上午3:04 ·

...

Star Wars x Studio Ghibli



### 3.3. 理解並掌握個案上的

合理使用

著作權法第 65 條：著作之**合理使用**，不構成著作財產權之侵害。

著作權法第 65 條：<http://law.moj.gov.tw/LawClass/LawSingle.aspx?Pcode=J0070017&FLNO=65>

**Fair Use** → 無權使用→合乎界限→合理使用 / Fair & Just / 不必受罰→通說：  
抗辯權 / 著作權法 § 44-63 、 65 / 美國著作權法 § 107 → 調合公益 vs. 私  
益→報導 / 評論 / 教學 / 研究 / 其他正當目的→私益退讓的領域 / 學習→概  
念 / 界限→條件 / 範圍→著作權法 § 65 / 四大要點→ 1. 利用的目的與性質 /  
公益 / 眾人的需求→ 2. 著作之性質 / 公益 / 史書、字典 / 必需品→ 3. 利用  
之質量比例 / 微罪不舉→ 4. 對市場價值之影響 / 無體財產權 / 取代效應。

**不是**有賺錢**一定不能合理使用**

Google Book

**也不是**不賺錢**一定能主張合理使用**

谷阿莫 - 《腦漿炸裂少女》

**而是這樣用會不會造成原作者財產利益折損**

# 直觀核心的理解合理使用

- 1、沒有損害原作者著作財產權利
- 2、小幅影響原作者著作財產權利、然有更高的公益理由
- 3、若是產生**經濟利益的取代效益**，相應風險升高。

著作權法第 64 條：採合理使用立場利用他人著作者，除不具名著作或著作人不明者外，應**以合理之方式**，明示**著作人之姓名或名稱**。

著作權法第 64 條：<https://law.moj.gov.tw/LawClass/LawSingle.aspx?pcodes=J0070017&flno=64>

# **合理之方式與資訊—釐清**

- 1. 利用之目的及性質**
- 2. 被利用著作性質**
- 3. 利用的質量比例**
- 4. 對原作潛在或現有價值影響**



FAIR USE @ <https://theinitium.com/opinion/20250412-culture-ai-arts-ethics-ghibli>

## NEWS

# Thomson Reuters wins an early court battle over AI, copyright, and fair use



Illustration by Cath Virginia / The Verge | Photos from Getty Images

/ A judge looked at possible copyright infringement defenses for Ross Intelligence and said, 'I reject them all.'

by [Richard Lawler](#)

Feb 12, 2025, 7:58 AM GMT+8



Comment (1 New)

「元照公司」侵害「法源公司」著作權一案之訴訟說明

## 壹、「法源公司」對「元照公司」提出告訴

「元照出版有限公司」（以下簡稱元照公司）為建置「月旦法學知識庫」侵害「法源資訊股份有限公司」（以下簡稱法源公司）著作權乙案，經「法源公司」依法對「元照公司」提起相關民事、刑事訴訟，並經法院判定「元照公司」侵害「法源公司」著作權後，雙方於民國（以下同）100年6月23日達成和解，說明如下：

一、「元照公司」完全同意並不再爭執智慧財產法院97年度刑智上訴字第41號刑事判決書所判定：「法源公司」之「法源法學資料庫」中「判解函釋」子資料庫及其司法判解與行政函釋之要旨享有著作權，且「法源法學資料庫」之著作財產權歸屬「法源公司」享有。

[https://www.lawbank.com.tw/ad/DM\\_20120912.htm](https://www.lawbank.com.tw/ad/DM_20120912.htm)

# Thomson Reuters v. Ross Intelligence

法源 v. 元照

1. 人工智慧、工人智慧
2. 非生成式相關訴訟
3. 產生市場價值代換無法主張合理使用

# AI 合理使用的爭議難題

- 1 、一個輸出涉及上百上千作品
- 2 、幾乎都是**通案**利用、非傳統概念理解的**個案**
- 3 、不是個別影響一篇文章、一幅畫，而可能**洗滌汰換整個職涯和世代**。

## 4. 正確採用 AI 以協助創作

## 4.1. 工具性的使用

輔具性的分工

# ~~Sweat of the brow doctrine~~

# 純辛勤原則已被否定 # 著作權保護的是原創表達並非勞務過程 #Feist

Publications, Inc. v. Rural Telephone Service Co. # 歐盟資料庫特別權利立法

**要得到著作權保護**

**必須是人類的精神創作**

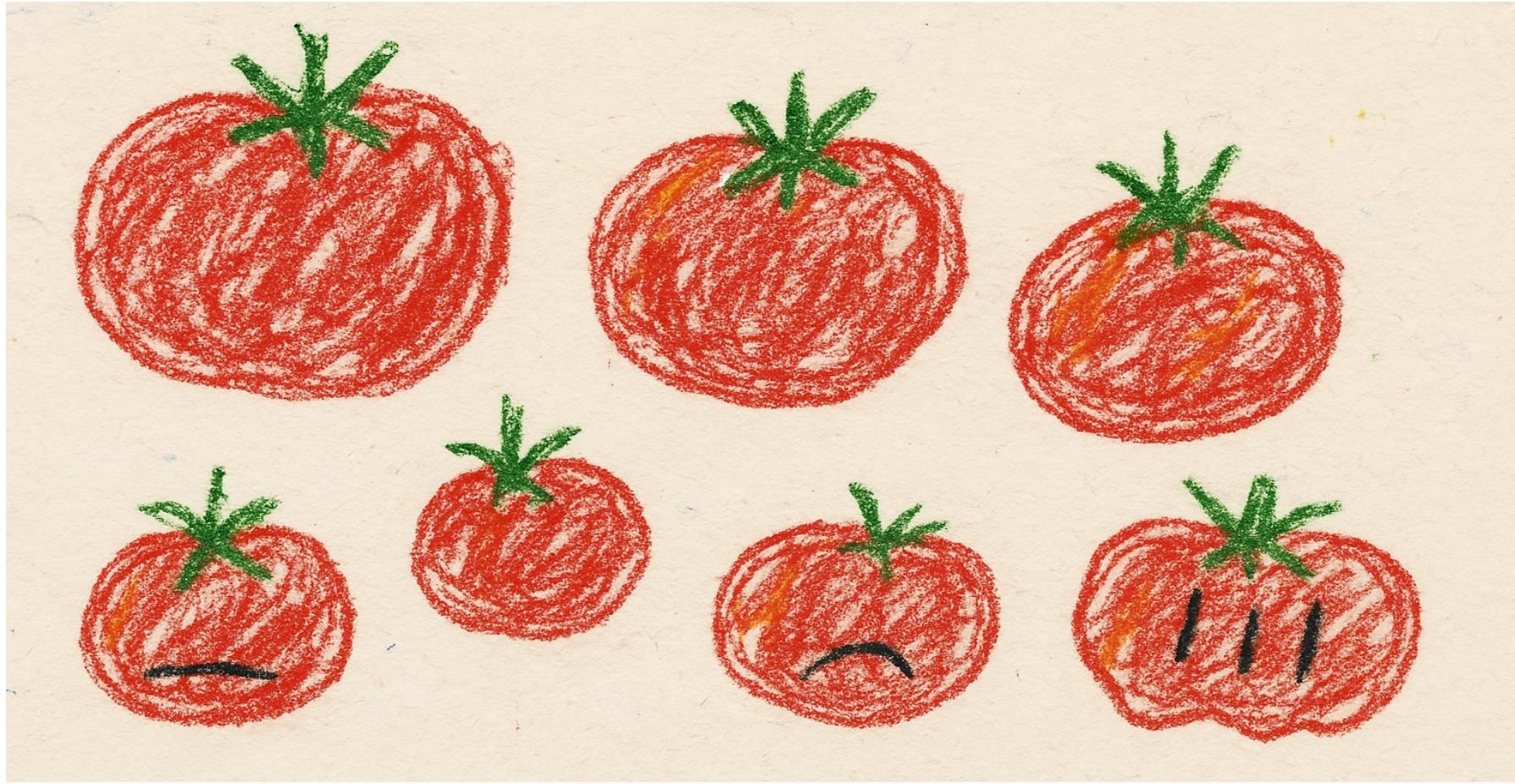
# 美學不歧視

Minimal requirement of creativity

# 只要是人做的！



Reference illustration by Lucien C.H. Lin, AI-generated with ChatGPT 4o, April 12, 2025



"Reference illustration" by Lucien C.H. Lin, AI-generated  
with ChatGPT 4o, CC0-1.0, April 12, 2025.

# 美學不歧視

Minimal requirement of creativity

# 著作權適格的判斷、必須是人做的

著作權論「有 / 無」、不論「高 / 低」



Copyright does not protect content produced by Generative AI (GenAI): Thaler v Perlmutter  
<https://barrysookman.com/2023/08/19/copyright-does-not-protect-content-produced-by-generative-ai-genai-with-no-human-involvement-thaler-v-perlmutter/>



By Self-portrait by the depicted Macaca nigra female. See article. - Wtop.com (archive; cropped and denoised by uploader), Public Domain, <https://commons.wikimedia.org/w/index.php?curid=36464057>



Not logged in Talk Contributions Create account Log in

WIKIPEDIA  
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This November is the Wikipedia Asian Month. Come join us.

# Monkey selfie copyright dispute

From Wikipedia, the free encyclopedia

The **monkey selfie copyright dispute** is a series of disputes about the copyright status of **selfies** taken by **Celebes crested macaques** using equipment belonging to the British nature photographer David Slater. The disputes involve **Wikimedia Commons**, which has hosted the images over Slater's objections, and **People for the Ethical Treatment of Animals** (PETA), who have argued that the macaque should be assigned the copyright.

Slater has argued that he has a valid copyright claim based on the fact that he engineered the situation that resulted in the pictures, by travelling to Indonesia, befriending a group of wild macaques, and setting up his camera equipment in such a way that a "selfie" picture might come about. The **Wikimedia Foundation**'s 2014 refusal to remove the pictures from its **Wikimedia Commons** image library was based on the understanding that copyright is held by the creator, that a non-human creator (not being a **legal person**) cannot hold copyright, and that the images are thus in the **public domain**. In December 2014, the **United States Copyright Office** stated that **works created by a non-human**, such as a photograph taken by a monkey, are not **copyrightable**. A number of legal experts in the US and UK have nevertheless argued that Slater's role in the process that led to the pictures being taken may have been sufficient to establish a valid copyright claim, stating that this is a decision that would have to be made by a court.<sup>[1][2][3]</sup>

In a separate dispute PETA has tried to use the monkey selfies to establish a legal precedent that animals can be declared copyright holders. Slater had published a book containing the photographs through self-publishing company **Blurb, Inc.** In September 2015, PETA filed a lawsuit against Slater and Blurb, requesting that the monkey be assigned copyright and that PETA be appointed to administer proceeds from the photos for the endangered species' benefit. In 2016, a judge ruled that the monkey cannot own the copyright to the images.<sup>[4]</sup> PETA appealed, and in September 2017, all sides agreed to a settlement in which Slater will donate a portion of future revenues on the photographs to wildlife organizations.



One of the monkey selfies at issue in the dispute.

Quoted under Fair Use doctrine, original attribution as:

CC BY-SA 3.0 @ wikipedia: [https://en.wikipedia.org/wiki/Monkey\\_selfie\\_copyright\\_dispute](https://en.wikipedia.org/wiki/Monkey_selfie_copyright_dispute)

Public Domain for the photo at: [https://en.wikipedia.org/wiki/File:Macaca\\_nigra\\_self-portrait\\_large.jpg](https://en.wikipedia.org/wiki/File:Macaca_nigra_self-portrait_large.jpg)

**動物自發的行為**

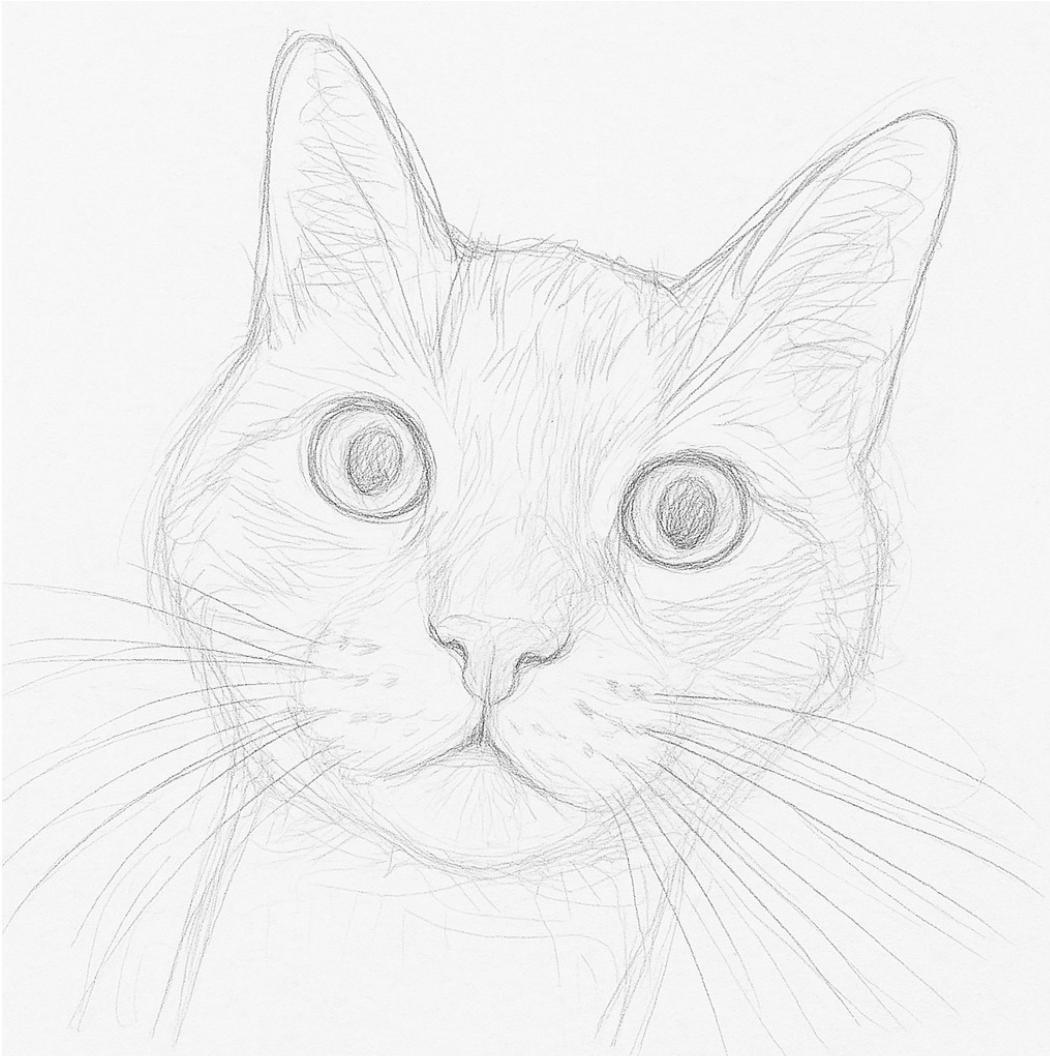
**人工智能全自動、半自動的混搭**

**沒有人類精神的注入**

# AI 作品要受著作權保護

# 人為創意在前、機器修潤在後

# 機器亂數產生在前、人為創意修潤在後

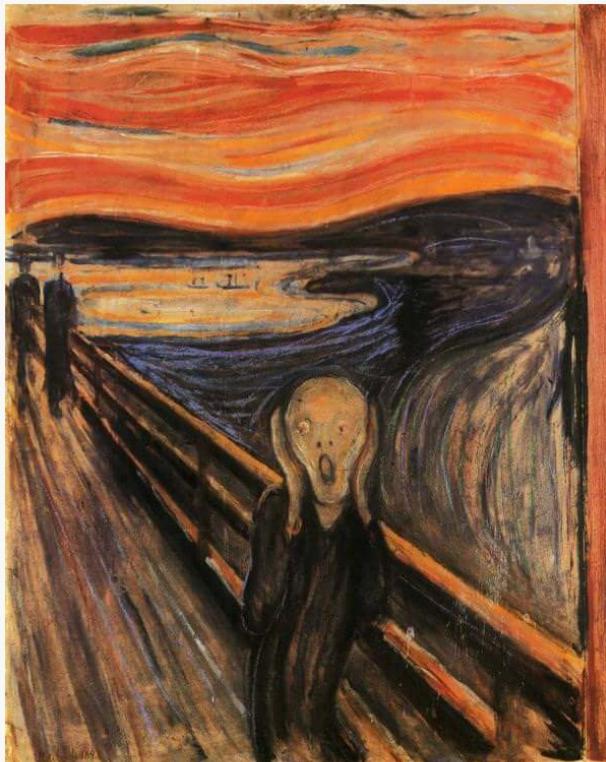


"Illustration of AI Colorization Following a Human Sketch" made in 2025 by Lucien C.H. Lin.  
This image was generated through ChatGPT 4o under the direction and creative concept of the author, and is dedicated to the public domain under the CC0-1.0 license.

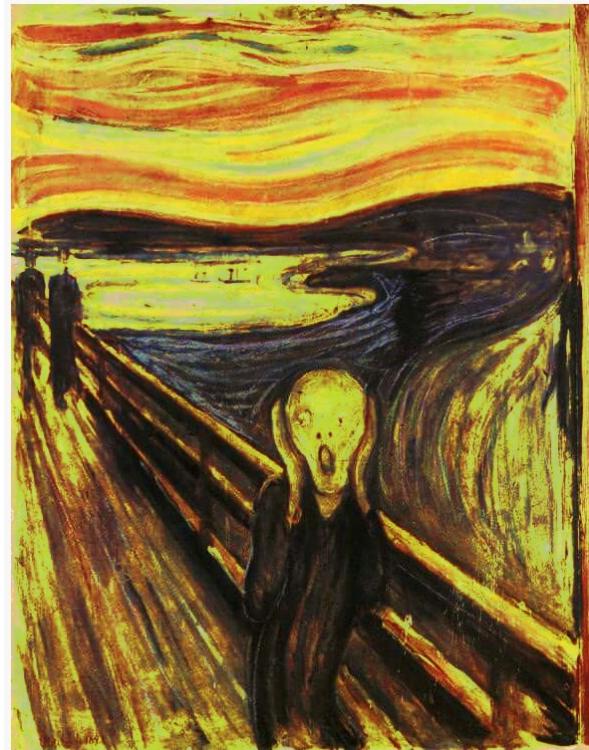


"Illustration of Human Refinement and Adaptation of an AI-Generated Work" made in 2025 by Lucien C.H. Lin.  
This image was generated through ChatGPT 4o under the direction and creative concept of the author, and is dedicated to the public domain under the CC0-1.0 dedication.

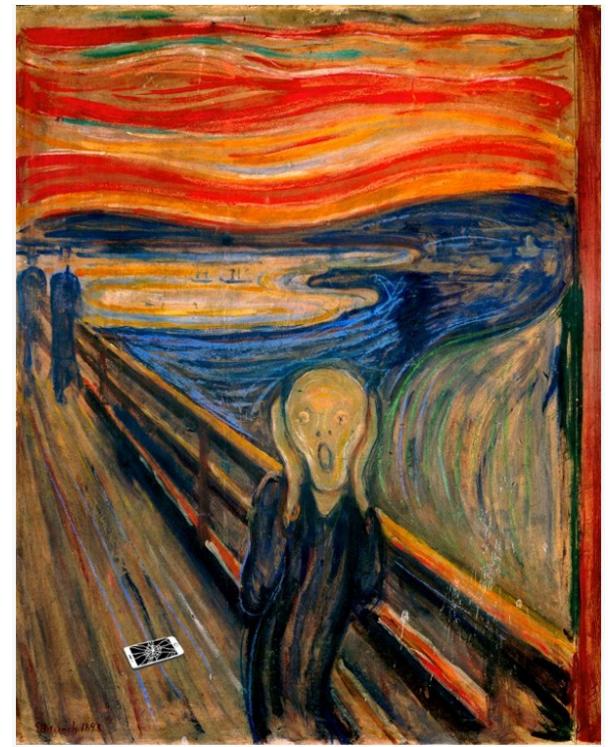
即使只是 1 % 的人類創意注入



The Scream, 1893 by Edvard Munch



The Scream, 1893 by Edvard Munch



Based on : The scream by Edvard Munch (1893)  
ART XSMART Project by Kim Dong-ju, 2013.  
<https://artsxsmart.tumblr.com/post/60089455891/the-scream-by-edvard-munch-1893>

The ones on the left two, Public Domain at: <https://www.edvardmunch.org/>

The one on the right one, Fair Use at: <https://i.pinimg.com/originals/f1/64/32/f1643293e8ed619f41077558f64d1f05.jpg>

# 多數的 AI 平台

1. 不主張產出物著作權
2. 操作者要就拿去主張
3. 後續責任主張者自負
4. 然必須註明是 AI 產生 - Built with AI / AI tags

**# 工具**：指令 AI 將本課程錄音內容完整謄錄為逐字稿。

-- 創意表達仍為原講者

**# 輔具**：指令 AI 將本課程錄音內容整理為 3000-5000

字報導，分為五章節，並就講者反覆說明之事採粗體表示。

-- 創意表達已混雜、建議洽原講者取得改作之授權。

# # 工具：

1. AI 為人類手、腳、畫筆等工具之延伸—**全有**
2. 人類完全無法預見或調校 AI 產出物的表達—**全無**

## # 輔具： - 得主張著作權利然必須具體標示 AI 協力狀態

1. 人為創意在前、機器修潤在後
2. 機器亂數產生在前、人為創意修潤在後

進一步說、考究人類就 AI Output

在「表達形式」上的「掌控能力」

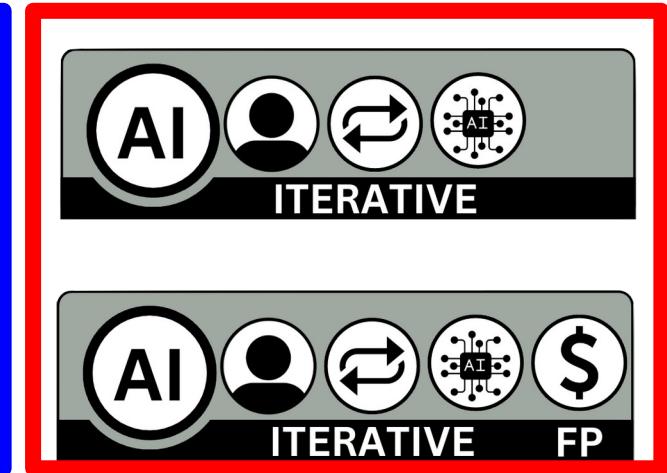
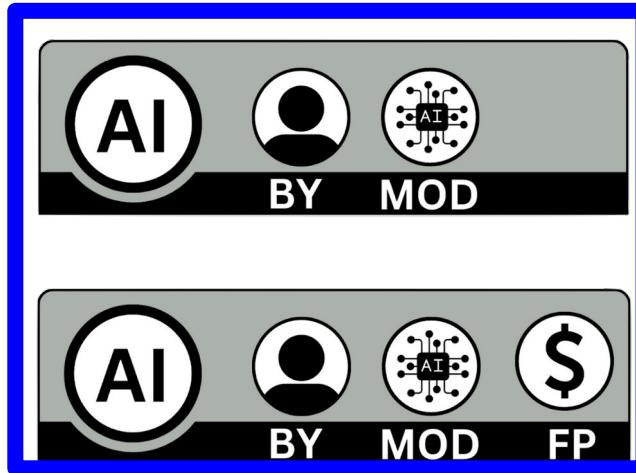
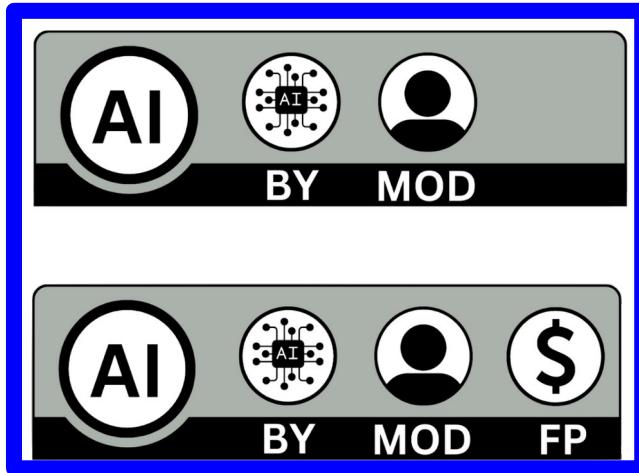
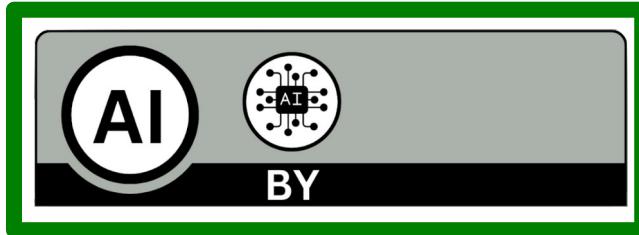
# 單純詠唱不能受到著作保護

~~"sweat of the brow" doctrine~~

# 著作權保護著作表達

除非詠唱者能主張其對詠唱結果具有表達控制力

當爭議發生時的檢測原則：操作者能不能於合理環境重現該表達？



Attribution 4 AI © 2024 by Jon Spike is licensed under CC BY-SA 4.0

## **4.2. 遊戲規則的尊重與遵守**

PP Artist Refuses Prize After



https://petapixel.com/2023/04/14/artist-refuses-prize-after-his-ai-image-wins-at-top-photo-contest/ 150%



# Artist Refuses Prize After His AI Image Wins at Top Photo Contest

APR 14, 2023

MICHAEL ZHANG



<https://petapixel.com/2023/04/14/artist-refuses-prize-after-his-ai-image-wins-at-top-photo-contest/>

概覽 Firefox 網路瀏覽器 6月18日 12 : 05 zh

PP Photographer Disqualifie × + https://petapixel.com/2024/06/12/photographer-disqualified-from-ai-image-contest-aft 150% ☆

PetaPixel

# Photographer Disqualified From AI Image Contest After Winning With Real Photo

JUN 12, 2024 MATT GROWCOOT



<https://petapixel.com/2024/06/12/photographer-disqualified-from-ai-image-contest-after-winning-with-real-photo/>



*FLAMINGONE* by Miles Astray which won an AI image contest.

A photographer has been disqualified from a picture competition after his real photograph won in the AI image category.

<https://petapixel.com/2024/06/12/photographer-disqualified-from-ai-image-contest-after-winning-with-real-photo/>

# 維持公共事務的公平性

以任何**合理方式**為之

若把 AI 當工具、完全操作過程和結果的創作表達，那它就是工具。

然若把 AI 當輔具，則應適當披露其輔助事實以得到公平評價。



Original: Alfred Stevens, CC0, via Wikimedia Commons  
AI modified: Lucien C.H. Lin, ChatGPT 4o, CC0, April 12, 2025.  
Inspired by: "I am Programmer.I have no life.'s Post"

**若是假的、不能讓人信以為真  
若非自撰、不能讓人誤為評價**

重點不是用 AI

重點是用了 AI 沒有揭露

而讓人誤會該等表達皆為原創

**AI 到底能不能用？**

**用到什麼程度？**

**平台或組織的規則**

# The use of generative AI and AI-assisted technologies in writing for Elsevier

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This policy aims to provide greater transparency and guidance to authors, readers, reviewers, editors in relation to generative AI and AI-assisted technologies. Elsevier will monitor this development and will adjust or refine this policy when appropriate. Please note the policy only refers to the writing process, and not to the use of AI tools to analyze and draw insights from data as part of the research process.

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1. 研究過程可、寫作過程原則不可，除非僅用於提升語言或可讀性，不涉及主論點的修潤工作。
2. 錦上添花或可、雪中送炭不可，主要結論、要點不能仰賴 AI 生成，圖表盡量求真求實，除非僅用在光影、對比的微調。
3. 單純工具可、輔具分工看狀況，並應配合三項要點的揭露與備存。

如果 AI 的建議直接融入我的論述，該如何確保最終作品仍符合學術對原創性的要求？  
事實性的整理、修潤性的調整



1. 生成式人工智能或人工智慧輔助工具的使用方式。
2. 模型或工具的名稱及製造商。
3. 可能會要求提供未經人工智慧調整前的素材版本。

# 2024 臺北生成藝術節競賽規則

參賽者使用的素材，若為第三方素材必須得到合法授權或符合《著作權法》第 65 條第 2 項的要求，即素材需為公開或合法授權的資源。所有使用的數據集和素材必須具有合法使用權，並在參賽文件中提供相應的授權證明和來源說明。參賽者需確保素材不侵犯他人的著作權，並遵守相關的法律規範；  
**若經評審提示，參賽者亦應提供第三方素材表單及向評審揭露原始素材以利評審工作之進行。**

理由：競賽作品是否有用到第三方素材為表達基礎，經過 AI 的轉譯之後有時很難被觀測或察覺，比照各國 AI 監管法制的演變，若有疑問發生時，AI 產製者應能夠揭露其生成所賴之基礎素材與清單，以利評審進行公平判斷。

## Health Economics Preliminary Examination, 2022

August 5, 2024

Instructions: Question 1 is required. Please answer two of the remaining four questions (i.e., from Questions 2-5). The exam is open book (i.e., you may refer to lecture notes, papers, and textbooks). Please complete the exam individually. You may not consult with anyone else on the questions or content. You may not use any sort of Artificial intelligence tools, such as ChatGPT, in any part of this exam. Please email back your exam to Ezra Golberstein ([egolber@umn.edu](mailto:egolber@umn.edu)) by 5pm. If you create any diagrams on paper that you wish to be included, please take a picture of the diagrams and send them to Ezra along with the rest of your exam.

no artificial intelligence.

KARE  
11

 A standard video player control bar showing a play button, a double arrow for previous/next, a volume icon, and the current time (0:41 / 6:04).

Scroll for details

 A standard video player control bar showing a pause button, closed captioning (CC), settings, and other controls.

<https://www.youtube.com/watch?v=MNonKtRrw7Q>

**使用工具來審驗**

**提交素材是否涉及 AI 生成？**

C FTC calls AI detection x +

https://www.courthousenews.com/ftc-calls-ai-detection-companys-claim-of 133% ☆

Log in to CasePortal

Wednesday, April 30, 2025

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# FTC calls AI detection company's claim of 98% accuracy bogus

*The commission says Workado's detection technology offers closer to 50% accuracy when analyzing whether non-academic content contains AI-generated text.*

JOE DODSON / April 28, 2025



**推定 ≠ 確定**

**推定結果可暫作如此，但必須  
留有補充資料**反證**的機會。**

# 版本控制— Version Control

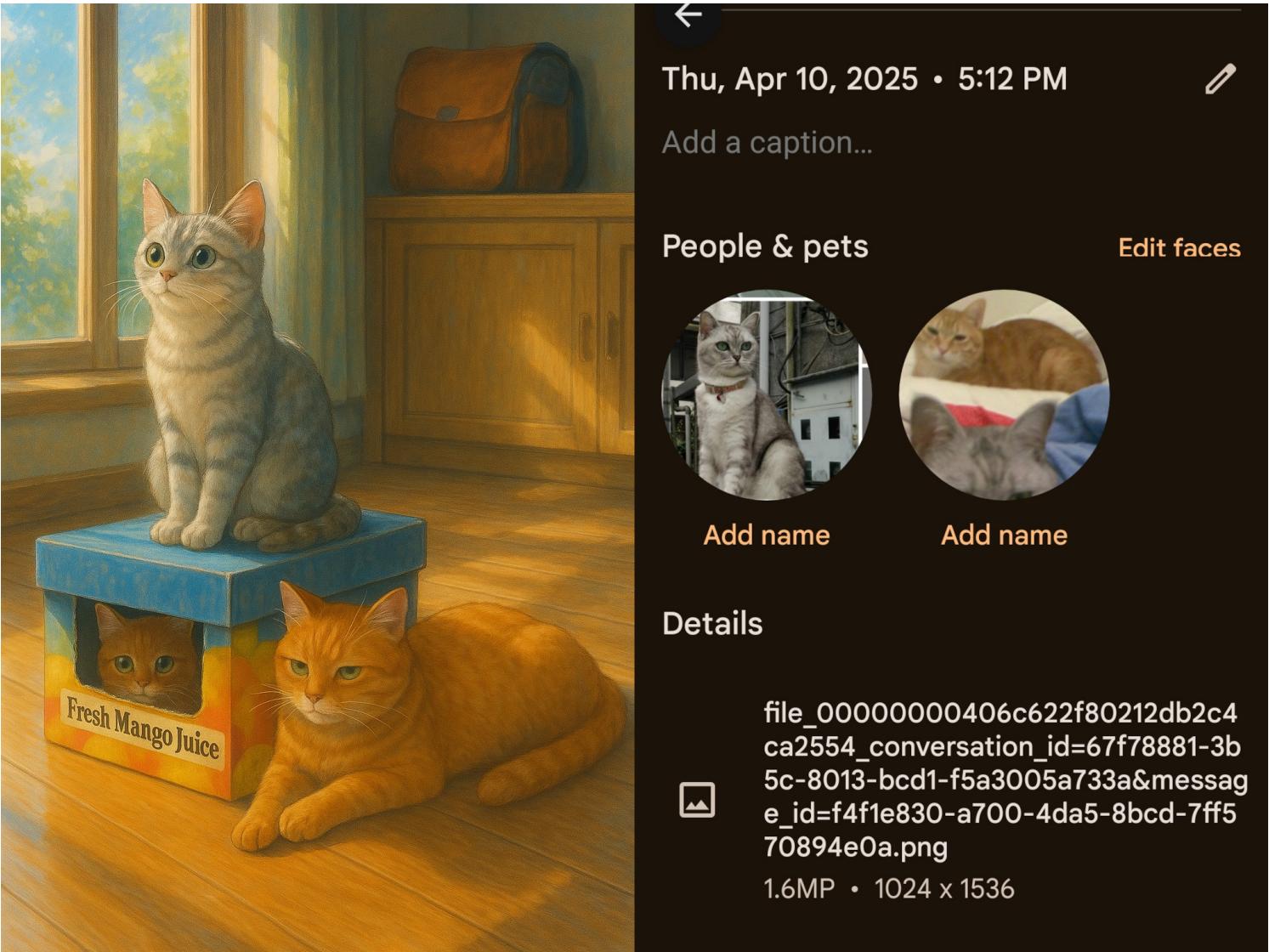
版本控制（英語：Version control）是維護工程藍圖的標準做法，能追蹤工程藍圖從誕生一直到定案的過程。此外，版本控制也是一種軟體工程技巧，藉此能在軟體開發的過程中，確保由不同人所編輯的同一程式檔案都得到同步。

<https://zh.wikipedia.org/zh-tw/版本控制>

### **4.3. 建議的妥適標示元素**

# 生成式 AI 工具使用的標示

- 1 、多數期刊 -- 文章之**研究方法、致謝、或聲明**
- 2 、具體可區隔的物件進行**合理範圍之標示**



Thu, Apr 10, 2025 • 5:12 PM



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People & pets

Edit faces



Add name



Add name

Details



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ca2554\_conversation\_id=67f78881-3b  
5c-8013-bcd1-f5a3005a733a&messag  
e\_id=f4f1e830-a700-4da5-8bcd-7ff5  
70894e0a.png

1.6MP • 1024 x 1536

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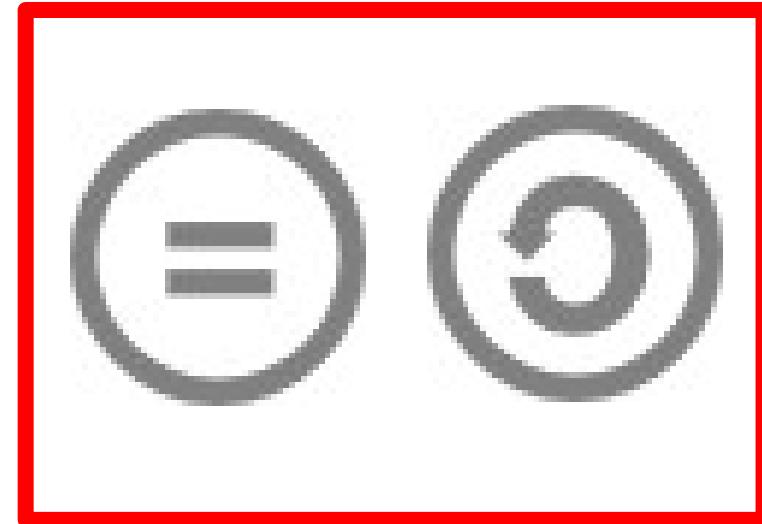
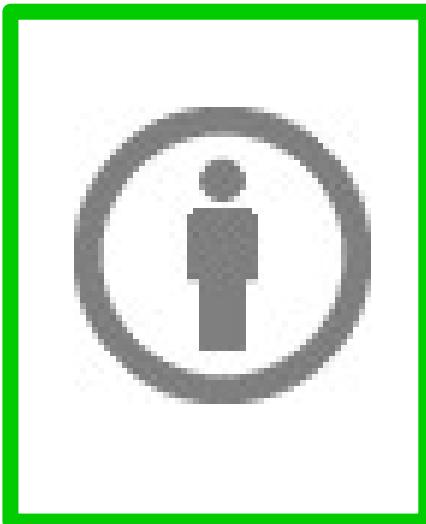


CC SA

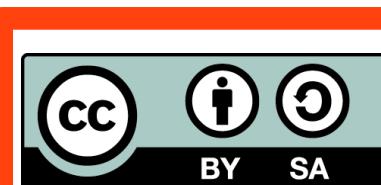
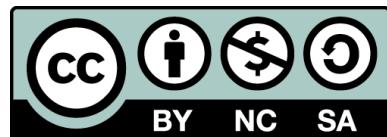
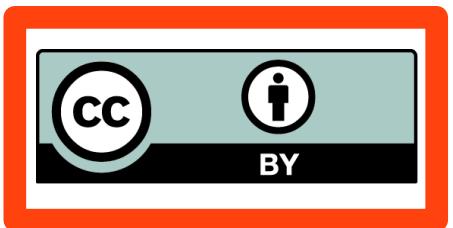
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式被利用

# CC 四大元素



# CC 六套組合





1



2

## 都是公眾領域



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### 相同方式分享表示 ShareAlike (SA)

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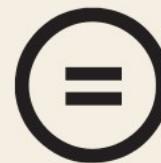
若授權人選擇此要素，表示該作品之後若被修改使用，新的衍生作品也只能用同樣的授權再次釋出，保持原作樂於被使用分享的初衷。



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## 六種授權條款



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# 手把手圖表說明CC授權素材的二創處理

2021-11-27

圖、文：[林誠夏\(Lucien Cheng-hsia Lin\)](#)，CC0-1.0。

## 前言

「封存的文化不是文化，文化要在流通再創才能續存，也才有機會得到源遠流長。」這也是為何國家文化記憶庫，要在過去數位典藏的基礎上，另行導入開放資料OGDL-Taiwan-1.0授權，以及CC授權，讓協力者能上傳及下載相關的詮釋資料及數位物件，以讓這些文化素材能做到真正流通，並在流通裡被賦予新生命，進而協助在地文化產業再創，更要導引至國際性的交流。CC授權於授權標章上作到言簡意賅，大大助長了單一素材流通時大家的信心與掌握度，然而於多元混合、協力共工時，當摻雜不同來源的CC素材，其授權相容上的依循規則，便轉為複雜化。為了真正讓國內有志取用CC素材，以站在前人肩膀，將相關文化素材的再次演繹，表達的更好，本文將以表格搭配範例說明的方式，協助大眾理解、並能實際運用，不同CC授權的素材，  
於一張圖表中進行串連。

<https://tw.creativecommons.net/2021/11/27/making-collection-and-derivative-work-with-cc-materials/>

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他人原素材授權模式	PDM	○	○	○	○	○	○	○	○
	CC0	○	○	○	○	○	○	○	○
	CC-BY	✗	○	○	○	○	○	○	○
	CC-BY-SA	✗	✗	○	✗	✗	✗	✗	✗
	CC-BY-NC	✗	✗	✗	○	✗	○	○	○
	CC-BY-ND(ND元素不得改用)	✗	✗	✗	✗	✗	✗	✗	✗
	CC-BY-NC-SA	✗	✗	✗	✗	✗	○	✗	✗
	CC-BY-NC-ND(ND元素不得改用)	✗	✗	✗	✗	✗	✗	✗	✗

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素材之一 授權模式	PDM	○	○	○	○(成果依CC-BY-SA)	○	×	○(成果依CC-BY-NC-SA)	×	○
	CC0	○	○	○	○(成果依CC-BY-SA)	○	×	○(成果依CC-BY-NC-SA)	×	○
	CC-BY	○	○	○	○(成果依CC-BY-SA)	○	×	○(成果依CC-BY-NC-SA)	×	○
	CC-BY-SA	○(成果依CC-BY-SA)	○(成果依CC-BY-SA)	○(成果依CC-BY-SA)	○(成果依CC-BY-SA)	×	×	×	×	○(成果依CC-BY-SA)
	CC-BY-NC	○	○	○	×	○	×	○(成果依CC-BY-NC-SA)	×	○
	CC-BY-ND(ND元素不得改用)	×	×	×	×	×	×	×	×	×
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	CC-BY-NC-ND(ND元素不得改用)	×	×	×	×	×	×	×	×	×
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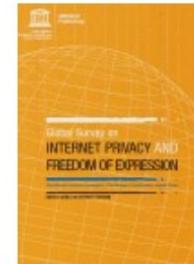


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[1 Basic components of attribution](#)

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"ChatGPT-4o testing for the accuracy and adjustability of text rendering" by the prompt author/operator: Lucien C.H. Lin, AI-generated image, provided under CC0-1.0, Date of operation: April 8, 2025.  
Two photos of the operator were used as input, with the prompt: "Transform into Ghibli style, and pay attention to the correct presentation of language text in the original image. For the image with the silver-gray cat, please mirror the image left to right, but do not mirror the language or numerical characters visible in the original photo."

「測試 ChatGPT 4o 對中英字顯示的正確性與可調整性」，操作者：林誠夏 (Lucien C.H. Lin)，AI 生成圖片，採 CC0-1.0 發布，操作日期：2025.4.8，使用 2 張操作者自拍照片，輸入詠語「轉換為吉卜力風格，並留意原圖裡中英文字的正確呈現，銀灰毛色貓那張圖，請轉換時將影像的左右反轉，然原照片顯示之中英數字，不被反轉。」

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and context

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<https://tw.creativecommons.net/openglam/>

# CC Taiwan 授權討論室

<https://groups.google.com/forum/#!forum/cctw-discussion>