

Damien Hirst and Tracey Emin among thousands of British artists used to train AI software, Midjourney

Publication Date: 2024-01-21

Author: James Tapper

Section: Technology

Tags: Artificial intelligence (AI), The Observer, Art, Computing, Intellectual property, features

Article URL: <https://www.theguardian.com/technology/2024/jan/21/we-need-to-come-together-british-artists-team-up-to-fight-ai-image-generating-software>



Since the emergence of Midjourney and other image generators, artists have been watching and wondering whether AI is a great opportunity or an existential threat. Now, after a list of 16,000 names emerged of artists whose work Midjourney had allegedly used to train its AI – including Bridget Riley, Damien Hirst, Rachel Whiteread, Tracey Emin, David Hockney and Anish Kapoor – the art world has issued a call to arms against the technologists. British artists have contacted US lawyers to discuss joining a class action against Midjourney and other AI firms, while others have told the Observer that they may bring their own legal action in the UK. “What we need to do is come together,” said Tim Flach, president of the Association of Photographers and an internationally acclaimed photographer whose name is on the list. “This public showing of this list of names is a great catalyst for artists to come together and challenge it. I personally would be up for doing that.” The 24-page list of names forms Exhibit J in a class action brought by 10 American artists in California against Midjourney, Stability AI, Runway AI and DeviantArt. Matthew Butterick, one of the lawyers representing the artists, said: “We’ve had interest from artists around the world, including the UK.” The tech firms have until 8 February to respond to the claim. Midjourney did not respond to requests for comment. “Though [the] defendants like to describe their AI image products in lofty terms, the reality is grubbier and nastier: AI image products are primarily valued as copyright-laundering devices, promising customers the benefits of art without the costs of artists,” the complaint says. The promise of AI is that it will generate the image in your imagination if you can describe it. Yet this promise is limited by whether or not someone else has already created part of the image you imagined. Artists have discovered that Midjourney will generate an image that is very similar to their original works, which they believe amounts to copying. And Midjourney allows – and encourages, according to the lawsuit – its users to specify an artist’s style. Flach is renowned for his stylised portraits of animals, from snow leopards to bats, often looking at the camera in a studio setting in a human-like way. His projects cost “tens of thousands”, he said, but AI generators can spit out copies in seconds. Some images apparently generated by the software feature snow leopards with exactly the same spots as ones in his shoots. “The impersonation of artists and their style is probably the thing that will stick,” Flach said. “Because if you take an artist’s style you’re effectively robbing them of their livelihood.” A survey last week by the Design and Artists Copyright Society (DACS) of 1,000 artists and agents found that 89% wanted the government to safeguard their part of the UK’s £108bn creative industries by regulating generative AI. Already 22% had discovered that their own work had been used to train AI. “If we’d done our survey now [after the list had come out] we probably would have had a stronger response,” said Reema Selhi, head of policy at DACS. “A lot of people didn’t know whether their works had been used. There’s a

transparency we didn't have a couple of months ago." Originally, ministers had wanted to open up copyright laws to make it easier for companies to train AIs without permission, Selhi said, but stopped after opposition from the creative sector. "We've had such a great strength of feeling from people that this is completely copyright infringement. Permission hasn't been sought. They haven't given consent. They haven't been remunerated. They haven't been credited." DACS is pushing for a form of licensing, perhaps similar to the royalties Spotify pays musicians – an amount often decried as derisory by independent artists. Selhi said that a \$1.5bn AI deal signed by Vodafone and Microsoft last week showed there was a lot more money available than when Spotify launched in the UK in 2010. Getty Images has already started a challenge against Stability AI, claiming the copyright of its photographs has been breached. Meanwhile, researchers at the University of Chicago have created a tool for artists to add to images they upload to the internet that is intended to poison the AI database. Julia Fullerton-Batten is an award-winning fine art photographer who creates extravagant imaginings of historical events. She said she had been "shocked and horrified" to discover her name on the Midjourney list, and investigated whether it could plagiarise her work. "Up came an image that was very similar to my 'In Between' series, a project that took me a long time to photograph," she said. "I definitely will do something about it. We shouldn't just let this wash over us." Yet even for someone on the list, Midjourney retains a seductive quality. "Your emotions go from being quite excited to see your style of photography on the screen," Fullerton-Batten said, "but within seconds you realise 'oh shit, that's really bad'. This is not good for the future of anybody." Her experience underlines why opposition to AI is not universal among artists, with some attempting to found an AI art movement. Before AI, artists used randomness and mathematics to generate works, and the line between inspiration and plagiarism is not always clear. Sci-fi artist Chris Foss is one of the most imitated artists by the AI generators, thanks to his long career illustrating the jackets of more than 1,000 classic novels by writers including Isaac Asimov, Philip K Dick and Arthur C Clarke, shaping our imagination of space travel. He even worked with Stanley Kubrick on A.I., the film later completed by Steven Spielberg. Yet the 77-year-old, who is also famous for his illustrations for The Joy of Sex, does not own a computer and was unaware of imitations on Midjourney until last week. "People who really know my work would instantly recognise these are not by me," he said, after seeing some "Chris Foss"-style images posted online. "They have a certain flatness – a lack of depth." He said that he was confident that clients would continue to buy his work and he has an exhibition in Guernsey later this year. Some of the AI images had caught his imagination, he said. "I've got to deliver about 80 paintings," Foss said. "I have to solve all sorts of problems with lighting and composition and things like this. And I'm looking at these [AI] things, thinking, you know what, I can download those, play with those, and I've got a bloody good painting. They've already solved all the problems for me."