World Intellectual Property Organization (WIPO)

AI Content Ownership and Privacy

Introduction

Artificial Intelligence (AI) models are capable of creating content, such as audio, images, text and videos, when given prompting information from humans, with an increasing number of platforms and services offering AI content generation. AI models are trained on existing data harvested from the internet, which can result in instances of copyright infringement. Privacy concerns are also raised, as AI models collect individuals' data at a rapid rate, often without individuals' consent or knowledge.

World Intellectual Property Organization (WIPO)

Established in 1967, the World Intellectual Property Organization (WIPO) is dedicated to assisting entrepreneurs, creators and innovators in protecting and promoting their intellectual property worldwide through the services that it provides. It currently has 194 member states, which convene for annual Assemblies to approve WIPO's activities, in which 250 intergovernmental and non-governmental organizations attend as observers. WIPO provides a global forum in which states "craft balanced IP rules for a fast-changing world", assist in resolving international intellectual property disputes and equip member states with the guidance to unlock intellectual property's "value for growth and development" (*WIPO*).

Artificial Intelligence (AI)

Generative Artificial Intelligence (AI) models are able to create images, text, audio and video that imitate the characteristics of the large datasets that they are trained on, which mimic

human creativity. As generative AI is able to produce a massive amount of content in a short time, using AI-generated content is often efficient (Mucci). Estimates conclude that generative AI's productivity could increase the global economy by $2.6 trillion to $4.4 trillion annually (Baig and Malik). However, the use of AI-generated content coincides with ethical and legal concerns.

Two types of content, generative and transformative content, can be produced by AI. While the former involves generating new content based on the user's prompts, the latter involves AI modifying existing content, such as rephrasing, rewriting, translating, or summarizing an existing text. AI models employ deep learning techniques, in which complex neural networks learn to recognize data patterns, enabling AI to engage in content generation and image recognition. Natural language processing techniques, which allow for AI to produce content in human languages, are trained on expansive datasets of existing articles, text and books (Mucci).

Copyright Concerns

Anglo-American copyright law dates back to 1710 with "An Act for the Encouragement of Learning", a British statute that has crafted a framework for the ownership of creative works. Generative AI is destabilizing the foundations of copyright law by raising major questions surrounding ownership and fair use. Since AI models are trained on existing data, concerns have arisen regarding copyright issues and plagiarism, as generative AI models may inadvertently duplicate or infringe upon copyrighted content. AI has already been repurposing information shared on the internet, such as photographs or resumes, without the knowledge or consent of the owners of such information (*Stanford University*). It is challenging to prove copyright

infringement in such cases, as questions arise regarding who initiated the infringement, whether it be the user that prompted the model, the company that trained the model, or the researchers that collected the training data given to the model (Crawford and Schultz).

When determining if a copyright infringement has occurred, lawsuits typically focus on a single work and a single unauthorized copy, also known as an “output”, of that work. However, the magnitude of data held by AI training systems renders traditional copyright analysis impossible. Some datasets offer almost 13 billion text captions and images to AI systems, and AI systems have already produced outputs in the billions (Crawford and Schultz).

While some generative AI models state in their terms of use that their outputs belong to the public domain, others maintain that they assume ownership of generated content (Parsons). While Canadian law does not provide a definitive answer as to who owns AI-generated content, the *Copyright Act* confers rights upon the copyright owners of original works. Past Supreme Court of Canada precedent has held that an “original work” has been created by “skill and judgement” that “must not be so trivial that it could be characterized as a purely mechanical exercise” (Parsons).

If AI models’ use of copyrighted material is determined to be infringement, two statutory exceptions to infringement could be argued. The temporary reproductions exception asserts that reproductions do not constitute copyright infringement if the reproduction meets three criteria, including that “the reproduction forms an essential part of a technological process” (Parsons). The fair dealing exception permits the use of copyrighted content for activities such as criticism, reporting, research, satire, or education. The Canadian fair dealing exception is more limited than in other jurisdictions (Parsons).

Several major generative AI companies, including but not limited to Meta, OpenAI and Google, are involved in lawsuits in which they are alleged to be breaching copyright laws by training their AI models with copyrighted materials, often without consent (Mucci). In 2023 alone, more than a dozen cases regarding AI copyright infringement were filed in the United States. To date, no United States court has held that AI training is copyright infringement. According to the US Copyright Office, AI is not entitled to copyright as it does not need the economic incentives that copyrights provide to authors. Moreover, human prompters are not likely to receive copyrights for their AI-generated work, as computer models have far greater control over the output than the prompter (Crawford and Schultz).

Artists are distressed that AI systems can replicate their unique artistic styles (Crawford and Schultz). Open AI allows users to submit images, which can then be transformed into a variety of different styles, including the distinctive artistic style of Japanese animation production company Studio Ghibli. A professor at the University of South Wales "[suspects] there will be legal implications because [the algorithm is] taking someone else's artwork, and it hasn't asked permission to do that" (Goonetillake).

Privacy Concerns

As training systems enable AI systems to constantly evolve, there is a significant difference between the rate at which intransparent AI systems collect individuals' data and the type of data collection that has been prevalent for the past few decades through internet commercialization. It is difficult for individuals to control what personal information is collected, learn how this data is used and remove personal data from use (Crawford and Schultz).

AI is capable of memorizing personal information it obtains from the internet, which enables spear-phishing, a technique where specific individuals are targeted to be victims of fraud or identity theft. Individuals with malicious intent have already been using AI voice cloning to impersonate individuals over the phone in extortion schemes (Crawford and Schultz).

AI-powered facial recognition surveillance technology has internalized biases in its training data, resulting in the false arrests of black men, illustrating additional privacy concerns (Crawford and Schultz).

World's Response

Many nations and actors worldwide are responding to the legal and ethical concerns posed by AI-generated content. The Danish government is responding to AI-generated deepfakes, which it describes as "a very realistic digital representation of a person, including their appearance and voice" (Bryant). Planning to submit an amendment to current copyright law in autumn of 2025, the Danish government intends to give individuals the right to demand online platforms to remove deepfakes of them if shared without consent (Bryant).

In March of 2025, the Changshu People's Court in China held that AI-generated images are eligible for copyright protection (Wininger). In South Korea, the Framework Act on Artificial Intelligence Development and Establishment of a Foundation of Trustworthiness takes effect in January of 2026 and imposes certain requirements for "high impact" AI systems while encouraging private sector AI innovation (Shivhare and Park).

In 2020, the Global Privacy Assembly passed the Resolution on Accountability in the Development and Use of Artificial Intelligence, which encourages organizations that develop AI

to implement accountability measures and urges governments to “make legislative changes in personal data protection laws” (*Global Privacy Assembly*).

The United Nations calls upon human rights watchdogs to “incorporate AI ethics into existing human rights frameworks while ensuring that AI applications respect individual rights, such as privacy” (Konwar).

Questions to Consider

1. Has your country implemented regulations on generative AI?
2. What is your country doing to address copyright and privacy concerns?
3. How does your country define ownership of AI-generated content?
4. Have there been any major privacy-related concerns involving generative AI in your country?
5. How would AI regulations in your country impact writers, artists or content creators?
6. How would AI regulations impact AI and technology companies?

Sources to Consider

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