

Navigating the Ethical Landscape of AI: Plagiarism, Ownership, and Fair Use Across Industries and Professions

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Abstract

As universities and creative industries grapple with the integration of Artificial Intelligence (AI), questions surrounding legitimate AI use versus unethical practices remain prevalent. While some institutions view AI as a novel tool for enhancing teaching, learning, and creativity, others are concerned about its role in facilitating academic and artistic dishonesty. The nuance of this argument is further complicated by the newness of the technology and the lack of clear ethical guidelines. This paper delved into the complexities of AI's impact and explored the blurred lines between legitimate AI assistance and plagiarism across various industries. Drawing parallels across domains such as academia, music, visual arts, journalism, and law, the paper scrutinized the ethical and legal implications of AI-generated content. Discussions ranged from the attribution of training data to AI models and the ownership of output to the potential for AI to disrupt established creative industries. Legal precedents, such as those in the music industry regarding sampling, fair use, and copyright infringement, provide insight into the evolving landscape of AI regulation. In journalism and law, contrasting attitudes toward AI utilization highlight divergent perspectives on professional ethics and AI's role in research and content generation. Moreover, recent lawsuits against tech companies highlight the contentious nature of AI's use of copyrighted material for training purposes. The paper concluded by advocating for an approach that balances technological advancement with ethical responsibility. The paper emphasized the need for robust legal frameworks and institutional policies to govern AI use while protecting creative innovation and academic integrity. Fair use, as used in this paper, refers to the legal doctrine that says brief samplings of material in certain situations can be used without consent from the copyright holder. Ethical responsibility, as used in the paper, can be defined as the ability to determine and act on what is fair or just.

Keywords: Artificial intelligence, Copyright, Infringement, Academia, Companies, Policies

1. Introduction

In the case of AI and generative models such as ChatGPT, one aspect that makes it particularly complex and distinct is that there is no party to attribute the “blame” of plagiaristic actions to, and there is no single party being stolen from. The creator of the model (OpenAI, in the case of ChatGPT) does not lose anything from the generation of essays using their model. On the contrary, they benefit from the additional use of their products as they gain a larger platform, incentivizing more users to purchase the premium plan (Nolan, 2023; Rogers, 2023). On the other hand, these AI models are trained on information from the internet and various sources, which include the intellectual property of others. OpenAI uses several sources to train its models, such as the Common Crawl data set, web pages such as Wikipedia, news articles, and books (Dsouza, 2023). The Common Crawl is of special controversy as it performs “data crawls,” in which it scours the internet for publicly available information and adds it to the database. As such, there is compelling evidence suggesting that the datasets used by commercial AI are composed of millions of images sourced from public-facing websites that are collected without proper authorization or compensation

(Thorpe, 2023). This data, whether it be photos or books, can include copyrighted work, and depending on how it is used, may mean that the creators of the model are responsible for copyright infringement. At the same time, the data used to train the AI model, and the information generated by AI is not identical to any of these sources; they are added to the expansive database of information given to the model to craft its responses. For an author to claim that their work was stolen by an AI model, the work would have to be “substantially similar” to the output. This is difficult to prove with AI as these models don’t use just one author’s work but multiple, so then, does this mean training models constitutes fair use (Congressional Research Services, 2023)?

As such, this raises the question of whether the use of such large amounts of data without permission fits within the boundaries of fair use or perhaps it is something new that must now work with as a part of our reality. By looking at a myriad of fields and industries, such as academia, journalism, music, visual arts, and law, we can evaluate the adequacy of the current legal framework surrounding AI-generated materials and whether the use of such tools is a shortcut or a legitimate advancement in creative and professional processes.

2. Academia

While legal precedents are yet to be established concerning the appropriate means to use AI, ethical debates about AI technology have persisted, especially within educational and academic contexts. Students have realized that “it’s very easy to use AI to do the lion’s share of the thinking while still submitting work that looks like your own,” and Chat GPT-4 was even able to get a 3.57 GPA for a Freshman semester at Harvard (Bodnick, 2023). One Columbia freshman, Owen Kichizo Terry, has demonstrated how ChatGPT can generate a defensible arguable claim about the *Iliad*, outline a paper, and use specific passages without raising the suspicions of a professor. This student suggested that instructors should embrace technology as a tool to help students learn to write a cohesive assignment, but in the end, he suggested instructors must abandon the take-home essay to truly teach students to “learn how to think” (Terry, 2023). Other commentators have agreed with this suggestion by saying that educators must accept that every student is using ChatGPT on every assignment and instead forgo the take-home essay for in-classroom learning (Roose, 2023)

Universities nationwide have recently implemented policies on AI technology and academic integrity. Some, like Duke University (2023), have suggested that “tools to short-cut assignments” are not a new challenge; Columbia University (2023) has considered AI a “new tool and technological innovation” for “the science of teaching and learning” (Kenyon, 2023). The degree to which students can use AI, however, remains in question. Can it be used to provide “meaningful feedback” on an essay? To edit grammatical mistakes? To provide tips on outlining and writing? Does this also apply in the real world, where there are increasing cases of artists and professionals using AI for their jobs? How does this impact the artists whose intellectual property was used to train the AI model, and should they be compensated for it?

The University of Oxford defines plagiarism as the act of “[p]resenting work or ideas from another source as your own, with or without consent of the original author, by incorporating it into your work without full acknowledgment” (Oxford, 2023). Although not inherently illegal, academic settings consider plagiarism an act of academic dishonesty that can lead to a failing grade and academic probation for a student or firing from a role and discrediting a publication for a scholar. Does this distinction change when AI is introduced as a middleman for this exchange? Using AI to generate an essay would not necessarily be an act of “theft,” but it would be a grievous act of academic dishonesty, void of the critical thought and reasoning that is crucial to academic competence. Nevertheless, AI can be used legitimately to ideate and streamline mundane tasks like note-taking, citing sources, and consolidating large chunks of information. It can also be used to help generate ideas; for example, instead of using AI to write a short story in a creative writing class, a student might use it to help formulate a prompt, character sketch, title, or theme. When used in moderation, AI can jumpstart the creative or scholarly process. So, one can essentially argue that Artificial Intelligence should not do the work for students but instead be used as a vehicle to help them do the work, just like if they were meeting with a tutor or writing coach.

3. Music Industry

In the music industry, it is illegal to take a piece of music from another artist without proper credit and licensing (Keith, 2023). In many cases, this requires paying a royalty fee to “borrow” snippets or chord progressions from these songs. This extends to even the most minute parts of a composition. The court ruling in the *Bridgeport Music, Inc. v. Dimension Films* (2005) case, for example, stated that any identifiable excerpt of creative work sourced from another origin must be acknowledged and credited appropriately. Furthermore, the ruling determined that obtaining a license is mandatory for the use of such excerpts, regardless of their duration (Challis, 2009). Besides direct sampling, there are still many cases in which a songwriter is sued over lyrics that are vaguely similar to those of another song (Radio X, 2023). Sean Hall and Nathan Butler took singer-songwriter Taylor Swift to court in 2022 over the lyrics for her hit song “Shake It Off.” Her lyrics, “Cause the players gonna play, play, play, play, play...” were thought to be similar to the lyrics of another hit song from years before that. The song in question, “Playas Gon’ Play,” reads “Playas, they gonna play...” (Aswad, 2022). Swift, Hall, and Butler came to the agreement that it was not a significant use of the song and that Swift’s lyrics simply referred to a popular saying, but there are many other cases of lyricists facing similar allegations (Thorpe, 2022). Normally, the offending artist is required to give the original artist a percentage of songwriting and publishing royalties, and properly credit them (Pegg, 2002; Christmas, 2015).

Recently, Google and Universal Music have attempted to negotiate a deal to license the voices and melodies of artists for the creation of AI-generated songs. Although not yet put to trial, currently, many industry leaders within the Universal Music Group and Spotify, for example, deem this type of “deep fake” technology for using the voice of a celebrity musician like Drake or The Weeknd a copyright infringement because it is trained on copyrighted intellectual property and is a “commercial appropriation of likeness in the form of a distinctive voice” (Ingham, 2023). Today, a group of legislators is actively championing the “Nurture Originals, Foster Art, and Keep Entertainment Safe” (NO FAKES) Act, with the primary aim of establishing liability for individuals involved in the creation of deepfakes. Additionally, the proposed legislation seeks to ensure that online platforms are held accountable for permitting the dissemination of such deceptive content (Coons, 2023).

The way around the inevitability of deepfakes for these major music companies appears to be monetizing the deepfakes by permitting the use of an artist’s likeness and voice for royalties (Mauran, 2023). While this solution may resolve the potential issue of “theft” that major companies are currently claiming, it does not resolve the issue of public confusion – how will people know whether a new music release is a deepfake or authentic? With major companies controlling the licensing of deep fakes, how will this impact new emerging artists if the music landscape becomes dominated by an infinite cycle of songs by currently popular artists? If any small snippet of chord progressions or words inspired by another composition can be considered plagiarism with legal copyright repercussions, would any string of words used by AI that is directly taken from a source material also be given the same penalty? Since they do not cite their sources, OpenAI’s model would surely fall under this category.

4. Visual Arts

For centuries, artists have grown by taking inspiration from others and replicating artistic styles. At the same time, if one copies an identifiable aspect of another artwork, it falls under plagiarism. Tracing is also considered plagiarism as, even though it is newly drawn, it takes ideas and concepts from other artists without credit (Bailey, 2020; Holmes, 2020). However, looking at other artworks and taking inspiration is something that artists always do, and this is not illegal. As even famed American writer T.S. Eliot stated, “Immature poets imitate; mature poets steal” (Eliot, 1920). Where precisely does the delineation between inspiration and copyright infringement emerge, particularly in the context of utilizing artificial intelligence?

Some argue that likening the utilization of an AI platform for artistic creation to using a camera offers a compelling analogy. In this comparison, the creator of the AI model assumes a role similar to that of the camera manufacturer, providing a tool that artists are free to acquire and employ. However, just as the maker of the camera does not claim credit for the photographs captured with it, the creator of the AI model does not assert ownership

over the resulting artworks. Instead, the copyright rightfully belongs to the artist who exercises creative agency in crafting the artwork (Congressional Research Services, 2023). This analogy effectively challenges the notion that the creator of the AI model holds proprietary rights over the art or outputs generated by the model. As stipulated in OpenAI's Terms and Conditions, users retain full rights to all outputs generated from their prompts. This principle underscores the idea that users maintain ownership of the outputs, extending beyond the realm of visual arts to various other domains. However, this framework fails to address the issue of training data, which often draws from a diverse array of artists and their works without appropriate attribution. This raises ethical concerns regarding the acquisition and utilization of data without proper acknowledgment of its sources.

With the creation of OpenAI's DALL-E-2 model (and other popular AI models that generate art), many artists became concerned that their work was being stolen and regenerated without proper credit (Thorpe, 2023). As scholar Jim McDermott (2023) suggests, AI is composed of "tiny, tiny pieces of material that someone else created" and is thus "the most advanced form of a chop shop" as millions of uncredited sources are exploited. A group of artists filed a class-action lawsuit against AI generators Stability AI Ltd., Midjourney Inc., and DeviantArt Inc. in January 2023. The lawsuit claims that the AI companies used copyrighted images without permission or compensation. The artists contend that collages of derivative works compete with originals in the marketplace. Additionally, they suggest that the AI's ability to create works "in the style of" a given artist "takes away" income from professional artists (Setty, 2023). Thus, for these artists, the use of AI is an act of "theft" because it steals distinctive styles to compete with them unfairly in the marketplace. The European Guild for Artificial Intelligence Regulation (2023) has suggested that since AI "indiscriminately scrap[es] the internet without the consent of the owners" and the users can then sell on the marketplace, it is an act of theft.

Moreover, there needs to be the consideration of how AI art will exist in spaces next to human-made art. Take the example of Boris Eldagsen, who won a Sony World Photography Award in the creative open category with an AI-generated photograph (Glynn, 2023). Eldagsen wittingly refused the award. His goal was simply to spark a discussion about the future of photography, which he certainly did.

Eldagsen is representative of someone who is trying to reconcile a path forward. He is not firmly against art generated by AI by any means. Instead, he believes in a future where there will be a clear distinction between AI-generated art and traditional art, a solution that will classify it as its own unique entity. For example, Eldagsen suggests there can be separate categories for awards and competitions where AI photography competes against other AI photography instead of human-taken photographs (2023). Eldagsen's approach is a worthwhile one. It acknowledges that Artificial Intelligence is a technology that is here to stay while considering a fair criteria for artists to get rightful credit for their work.

5. Journalism & Writing

So, the use of AI to generate new content is an act of theft where its products compete, and or substitute, for original copyrighted works in the marketplace. In the *Authors Guild v. Google Inc.* (2015) case the court determined that Google Books's unauthorized digitizing of copyrighted works was an act of "non-infringing fair use" because the display of the text was limited, and did not provide a "significant market substitute for the protected aspects of the originals." As legal scholar Alain Strowel argues, however, AI-generated works can act as a "good substitute" for other written content (Strowel, 2023). If they provide a "significant market substitute", could AI-generated works become the future? This would certainly be theft from the authors whose work is used to train this model, but would also be unfair competition to those who create original works. Is there a way for authors to use AI for their work without creating unfair competition or stealing from those who create their work? Does the creator of the AI model deserve a portion of these profits, or should everyone make their model?

In professional settings, such as journalism, plagiarism can lead to legal action, and many people lose their jobs from committing such acts. Using AI, however, is not as frowned upon in the journalism industry (Uberti, 2014). The Associated Press (AP) News prides itself on being "one of the first news organizations to leverage AI and automation to bolster its core news report." The company uses AI technology to generate automated stories, to cover topics such as sports game recaps. AP News employees use an AI model called Wordsmith, which is not trained on

information from the internet. Rather, users “upload their data and automatically generate their narratives” (Associated Press, 2014). Legitimate news sources like AP, then, do not consider the use of AI to generate prose an act of plagiarism or theft because it relies on unique and original inputs. AP has partnered with OpenAI, granting them access to a portion of the AP archive in return for utilizing OpenAI's products (O'Brien, 2023). Should other artists be offered this same exchange if their work is being used to train OpenAI's models?

6. Law

While journalism seems split on how AI should be used professionally, some professions, like law, have taken a less optimistic approach to AI technology. In May of 2023, two attorneys, Steven A. Schwartz, and Peter LoDuca, used ChatGPT to help them research previous court cases for a client (Armstrong, 2023). The AI system generated results that were not real court cases, but the two still used these cases in their arguments. According to Judge P. Kevin Castel, the issue in the case was not the fact that they used AI but rather that “the legal analysis [was] gibberish [and] the summary of the case's procedural history [was] nonsensical.” Castel stated that there was “nothing inherently improper about using a reliable artificial intelligence tool for assistance.” The attorneys were only fined \$5,000, although disciplinary authorities may carry an independent investigation, which could ultimately lead to disbarment. The issue, then, was one of upholding professional standards to not “promote cynicism about the legal profession and the American judicial system,” not necessarily one of illegality (Weiser, 2023). This ruling introduces several possibilities in the future for AI in legal research, as newer AI models such as GPT-4 are becoming increasingly reliable and accurate (Heaven, 2023). Will the use of AI be permitted and readily used, especially in the field of law, for research in the future? Lawyers have a responsibility to their clients to not use AI, and it is a breach of privacy to use these platforms.

Beyond the professional consequences of using AI as a reporter or lawyer, media outlets have been suing tech companies for training their machine learning models on their sources without permission. In December 2023, *The New York Times* accused Microsoft of using millions of newspaper articles without permission (Stempel, 2023). While the U.S. Copyright Office acknowledges the concept of “fair use” of sources when the product created using the source is “transformative” and thereby “adds something new, with a further purpose or character,” the *NYT* claims that OpenAI appropriates their content “without payment to create products that substitute for the Times and steal audiences away from it (U.S. Copyright Office, 2023). In February 2024, news organizations *The Intercept*, *Raw Story*, and *AlterNet* also sued OpenAI because of their misuse of their articles to train AI models (Brittain, 2024). These outlets claim that OpenAI reproduces their articles “verbatim” or “nearly verbatim” when prompted. In this instance, the media companies are requesting \$2,500 per violation and urging OpenAI to eliminate all copyrighted articles from its data training sets (Lu, 2024). This has come after numerous senators like Richard Blumenthal and Josh Hawley, have called for “rules and safeguards to address [AI's] immense promise and pitfalls” to “oversee and illuminate AI's advanced algorithms and powerful technology” (Blumenthal, 2023). The Senate Committee on the Judiciary has also actively been investigating these issues. Before the Senate Subcommittee on Privacy, Technology, and the Law, Woodrow Herzog, a law professor at Boston University, emphasized that the legal system must acknowledge that AI is not neutral. He advocates for holding AI creators responsible for their outputs, prioritizing the regulation of power abuses, and enforcing rules regarding care and confidentiality in the handling and deployment of data. Herzog suggests resisting the notion that AI is inevitable and suggests considering “outright prohibitions” on the most hazardous designs and deployments (Hartzog, 2023).

In this context, certain prominent media entities such as *The New York Times* and *The Intercept* contend that employing AI for content generation amounts to plagiarism and breaches copyright due to the underlying models used in machine learning technology, which would classify its use as “theft.” Conversely, other outlets like the *AP* hold no such gripes. Nevertheless, this ongoing debate remains unresolved: will the utilization of AI qualify as “fair use,” or will its unremunerated use of media for training purposes face prohibition? Is AI destined for unrestricted freedom, or will governmental intervention seek to constrain its scope? These questions continue to spark heated discussions, with past copyright frameworks proving inadequate in shaping AI's future. While no one advocates for a Luddite regression where AI is abandoned entirely, there's equal reluctance towards a future where unchecked

technological advancement spawns entities akin to a lawless Frankenstein or an artificial Prometheus.

7. Discussion

The ethical implications of Artificial Intelligence are not concrete enough to make this a simple argument. As the research demonstrates, nearly every example of the utilization of AI can be viewed through multiple lenses based on how the AI is used, the extent to which it is used, and what it is used for. That being said, the research does ultimately prove that certain consequences will have a detrimental effect on specific professions and industries. For example, by submitting an essay that was entirely written by AI, an author would not only be committing an act of plagiarism by drawing from millions of other sources without citation, but it would also be an unfair competitive advantage in the “marketplace” of publishable work. Both factors—the potential for dishonesty and the dehumanization of the creative pursuit—must be considered when grappling with Artificial Intelligence. As discussed in the Eldagsen example, there are ways to classify AI as a legitimate enterprise while still separating it from human-made art and output. Additionally, AI’s role in journalism demonstrates the need for nuance as while AI allows for unparalleled unique insights from large amounts of sources, but again, it is using these sources without proper copyright. Ultimately, it is clear that there is a need for clear guidelines and frameworks that will allow AI to be integrated into these various workflows without harming the integrity of these fields. However, part of the responsibility also falls to us to be transparent about how and to what extent AI is used in our work, ensuring that we maintain ethical standards of human creativity in the process.

8. Conclusion

In order for there to be a just path forward, certain legalities must be established to ensure that Artificial Intelligence is used as a tool to enhance creativity and not a substitute for it. Due to the new and ever-evolving nature of the technology, it is going to take a lot of effort and accountability to ensure that these systems are put in place. However, if used as a tool to support productivity and creativity and not a replacement for them, while taking into consideration the creators of the material used to train the AI, Artificial Intelligence has the potential to elevate people’s professional and creative pursuits.

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