



Artificial Intelligence & Copyright Policy

Advancing Technology and Creativity in the 21st Century Economy

Artificial Intelligence (AI) is advancing innovation and creativity in every sector of our economy. For example, AI provides creators with new tools to enhance their craft—in special effects in film, in sound mixing, in architectural planning, and in vehicular styling and design. As this technology continues to evolve, it is important to consider the role of copyright law in encouraging innovation and protecting the rights of creators. US copyright law is sufficiently flexible to adapt to this transformational technology, but we encourage further work on additional protections for artists to prevent the spread of unauthorized, AI-generated replicas of their name, image, likeness, or voice.

COPYRIGHT LAW AND AI INNOVATION



**Responsible AI Training
and Protecting Artists
and Copyright Holders**



**Remedies if
AI-Generated
Works Infringe**



**Copyright
Protection for
Creators Using AI**



Responsible AI Training and Protecting Artists and Copyright Holders

Training AI systems involves the computational analysis of large volumes of data. An AI system turns bits of data into tokens and maps how a token correlates with others. Computational analysis allows the AI system to predict what will come next.

Copyright protection applies broadly to almost any creative expression. Some of the data used to train an AI system may be part of a copyrighted work. But the

training data is normally not used for its expressive content. Rather, the data is disassembled into smaller machine-readable units—or “tokens”—and then put through a computational analysis that involves mathematical calculations of probabilities, correlations, trends, and other patterns across millions or billions of tokens in a training data set.

An AI developer training a large language model, for instance, may use publicly available textual material (ranging from public, but copyright-protected essays to anonymous commentary on a website) to create a training data set. The use of the data is only to extract

unprotected information about the English language (i.e., the correlations, patterns, and relationships among “tokens” spanning the 26 letters of the English alphabet and 1 million English language words, as they appear in thousands of stock phrases, figures of speech, similes, metaphors, and common expressions).

The AI training will not infringe copyright. Nonetheless, at BSA we believe it is important to consider additional steps to protect the creativity of artists and rightsholders. One step is to encourage voluntary conversations around automated tools to indicate that the rights-owner does not want a website used for training purposes, similar to the current “do not crawl” tools that apply to search engines. BSA supports further discussions to arrive at effective, consensus-based technical mechanisms.



Remedies if AI-Generated Works Infringe

Copyright holders should have full and effective remedies when their rights are infringed. This principle applies equally to outputs generated using AI systems.

Copyright remedies have been effective to deter infringement and should remain so. In addition, Congress should consider whether there are steps it can take to better protect artists from the spread of unauthorized, AI-generated replicas of their name, image, likeness, or voice. Many states currently provide some protections through rights-of-publicity. To improve protection for artists and creators, BSA supports further development of federal legislation focused on AI-generated replicas.



Copyright Protection for Creators Using AI

Generative AI can bolster creativity, just as other software applications have long been an important tool of artists and storytellers (e.g., photo enhancements for visual artists, special effects in audio-visual works, and arranging music for sound recordings). When generative AI is used to enhance human creativity, the resulting work should be protected by copyright. If copyright protection is not available simply because AI was used in the creative process, it will limit the responsible use of AI and the purpose of our copyright laws.