

The Future of Intellectual Property: AI and machine learning

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Continuing Food for Thought

- **Creators' interests**
 - Not just a legal issue: consent of those included
 - “It’s in the TOS”
 - Opt-out/opt-in
 - Exposing.ai
 - My own Flickr images – 12 in “MegaFace”

Continuing Food for Thought

- **Creators' interests**
 - Different ethics in different communities of creators
 - Tumblr: re-post vs. re-blog vs. other reuse
 - But see, TikTok
 - Twitter: Thread reader apps (and/or outside embeds)
 - How do you know about varied ethics & take them into consideration while still doing same AI/ML work?
 - For a start: who is on your AI/ML dev team?
 - For the second half: I'm not sure you can

Who is a “creator”, anyway?



- "Folsom Prison Gangstaz " example
 - Does copyright exist in order to prevent the remix from happening without permission?

Who is a “creator”, anyway?



- Our societal understandings of “authorship” tend to center certain types of creators and certain art forms.
 - Very real in courts. E.g., compare legal treatment of “appropriation art” vs. music sampling.

Other equity issues in ownership /consent from creators

- **Contracts/Work for Hire**
 - Creators often are not the owners of their own work; those with more resources/power are often more able to shape their contracts
- **Incompatible ownership/use models**
 - Diversifying inputs often = representing more cultures in inputs
 - What if members of an indigenous culture consider something in your online collections inappropriate for public viewing and access?

AI and Machine Learning Outputs



- Who owns the copyright in this image?
 - (Can you tell what it was generated from?)
 - Janelle Shane at “AI Weirdness”

AI and Machine Learning Outputs

- Ownership and authorship have big reverberations in AI and ML work
 - Under US law, a work eligible for copyright protection must be an "original work of authorship". (17 USC 102)
 - And must have a human author. (Section 306, Compendium of US Copyright Office Practices, 3rd Edition)

AI and Machine Learning Outputs

- Artificial authorship is not a new issue!
 - “...the Office will not register works produced by a machine or mere mechanical process that operates randomly or automatically without any creative input or intervention from a human author...” section 313.2 (Compendium, 3rd Ed; also referencing a Copyright Office report from 1966.)

AI and Machine Learning Outputs

- So, who owns this image?
Likely no one!



AI and Machine Learning Outputs

– Future Directions

- **Some lobbying for new approaches that create ownership rights**
 - Non-human authorship
 - Creativity of current processes
- **Alternate approaches**
 - Open licenses (tho often based on ownership)
 - Trade secret
 - Contractual limitations on use/access

Learn More

Longer-form opportunities

- Janelle Shane (@janellecshane)
 - AIWeirdness.com (image earlier was generated using Great British Bake-Off as inputs)
Her blog posts are, for me, very accessible explanations of some of the underlying tech, especially in image and text generation
 - New-ish book I want to read: “You Look Like a Thing And I Love You”
- Abeba Birhane (@abebab)
 - Robot Rights? Let's Talk about Human Welfare Instead. Abeba Birhane, Jelle van Dijk; DOI: 10.1145/3375627.3375855; Preprint at <https://arxiv.org/abs/2001.05046v1>
- Frank Pasquale (@FrankPasquale)
 - More lawyerly +/- econ lens
 - New book “New Laws of Robotics: Defending Human Expertise in the Age of AI
- MIT Tech Review (@techreview, techreview.com)

Learn More

People who are Very Interesting on Twitter

(I learn well through interaction; Twitter is a great tool for me.
Of course that's not true for lots of people. YMMV!)

- Ali Alkhatib (@_alialkhatib)
- Chris Gilliard (@hypervisible)
- Jasmine McNealy (@jasminemcnealy)
- Deb Raji (@rajinio)
- Rachel Thomas (@math_Rachel)
- Arvind Naranayan (@random_walker)