TRANSCRIPT OF PROCEEDINGS

In the Matter of:)
)
COPYRIGHT AND ARTIFICIAL   )
INTELLIGENCE AUDIOVISUAL   )
WORKS LISTENING SESSION   )
)

Pages: 1 through 132

Place: Washington, D.C.

Date: May 17, 2023

BEFORE THE LIBRARY OF CONGRESS
U.S. COPYRIGHT OFFICE

In the Matter of:)
)
COPYRIGHT AND ARTIFICIAL   )
INTELLIGENCE AUDIOVISUAL   )
WORKS LISTENING SESSION   )
)

                           Suite 206
                           Heritage Reporting Corporation
                           1220 L Street, NW
                           Washington, D.C.

                           Wednesday,
                           May 17, 2023

        The parties met remotely, pursuant to the notice,

at 1:05 p.m.

        ATTENDEES:

        SUZANNE WILSON, U.S. Copyright Office
        EMILY CHAPUIS, U.S. Copyright Office
        BENJAMIN BRADY, U.S. Copyright Office
        BRITTANY LAMB, U.S. Copyright Office
        JOHN BERGMAYER, Public Knowledge
        ANNA CHAUVET, National Association of Broadcasters
        MIMI HEFT, The Presentation Guild
        ASHLEY LINDLEY, AI Developer
        BEN SHEFFNER, Motion Picture Association
        BRIAN SMITH, Roblox
        GILLIAN SMITH, Worcester Polytechnic
        STEVEN TEPP, Global Innovation Policy Center,
          U.S. Chamber of Commerce
        MELINDA KERN, U.S. Copyright Office
        GABRIELA ROJAS-LUNA, U.S. Copyright Office
        JOHN AUGUST, Writers Guild of America West
        KYLAN GIBBS, Inworld AI
        KIM GOLDFARB, Directors Guild of America
        CHERIE HU, Water & Music
        HILARY MASON, Hidden Door
        TARA PARACHUK, Voices.com
        KRISTEN SANGER, Storyblocks
        ANDREW YOUNG, Cinematographer
        JOANNA BLATCHLY, U.S. Copyright Office
        RYAN ABBOTT, University of Surrey
        JUAN CALLE Liberum Donum Studios

ATTENDEES: (Cont'd.)

ALEX COX, Filmmaker
MOUNIR IBRAHIM, Truepic
EDUARDO SALAZAR, Forctis AG
STEPHEN JAMES TAYLOR, Composer

1   P R O C E E D I N G S

2   (1:05 p.m.)

3   MS. CHAPUIS: Welcome to the U.S. Copyright

4   Office's listening session on Artificial Intelligence

5   and Audiovisual Works. I'm Emily Chapuis, the Deputy

6   General Counsel at the Copyright Office.

7   Before we begin, I'd like to introduce Suzy

8   Wilson for opening remarks. Suzy is the General

9   Counsel and Associate Register of Copyrights of the

10   U.S. Copyright Office. Suzy?

11   MS. WILSON: Thank you, Emily.

12   Welcome to the Copyright Office's public

13   listening session on Artificial Intelligence and

14   Audiovisual Works. As with our prior listening

15   sessions on AI, we are pleased with the public's

16   engagement on this important issue. I personally am

17   super encouraged by the number of panelists and

18   participants here today, many of whom may have never

19   attended a Copyright Office event before. We invite

20   you to follow the office on Twitter and on LinkedIn as

21   well as sign up at our website for our news updates.

22   By doing so, that will ensure that you will not miss

23   any future updates on our AI work as well as other

24   important copyright issues.

25   After two previous listening sessions

1   addressing written works and visual arts, we turn

2   today to AI and audiovisual works. We are all

3   familiar with many common examples of such works,

4   including movies, television shows, video games, and

5   commercials, but audiovisual works also include

6   concert videos, documentaries, animation, multimedia

7   works, videos of sporting events, and slide

8   presentations.

9   We've seen the extensive news coverage on

10   the astounding potential of AI. It's likely that you

11   have all seen text and images that have been generated

12   by these deep learning text-to-image models. Many of

13   us have also seen speculation on whether AI can create

14   longer written works, such as scripts for a filmed

15   programming show. We know that some generative AI

16   models already can produce beautiful and fantastical

17   scenes and character images.

18   At the same time, we've heard the concerns

19   from writers, musicians, artists, and photographers

20   about what the training and deployment of these models

21   might mean for their livelihoods and industries both

22   in terms of their own creative works in the

23   development of these models, as well as a lot of

24   excitement and questions related to the outputs.

25   The Copyright Office has long focused on the

1   impact of new technologies on the copyright system.

2   Today, generative AI models raise a number of

3   copyright-related issues that call for our engagement.

4   In March, the office issued a new policy

5   statement on registration which reaffirmed that

6   applicants have a duty to disclose the inclusion of

7   AI-generated content in their works submitted for

8   registration. Over the last two listening sessions,

9   we've heard reactions to this policy statement,

10   including some suggestions requesting additional

11   guidance. We except we'll hear more on that subject

12   today.

13   There was a lot of interest in speaking at

14   today's session. While we're not able to accommodate

15   all the requests that we receive, this is also not the

16   last opportunity for members of the public to share

17   their views with the Copyright office on AI. This

18   summer, the office plans to host two public webinars.

19   The first will be focused on registration and will

20   dive more deeply into the guidance that we have

21   provided. The second webinar will focus on the

22   international aspects of AI. Then, later this year,

23   we'll pose a number of questions about copyright and

24   AI to the public through a notice of inquiry. This

25   inquiry will seek written comments to these questions.

1   Please visit our website, copyright.gov/AI, for more

2   information and resources on our AI initiative,

3   including about these future events.

4   Finally, we thank our panelists in advance

5   for contributing to today's conversation. This is a

6   complex topic we know and a deeply personal one for

7   our participants and for those listening, whether they

8   are users or developers of AI technology, writers and

9   artists whose works have been used to train that

10   technology, or creators who are still contemplating

11   the role that AI will play in their careers and their

12   work. I will now turn the mic back over to Deputy

13   General Counsel Emily Chapuis for more information

14   about today's session.

15   MS. CHAPUIS: Thank you, Suzy.

16   As Suzy said, today's listening session is

17   the third in this series. Each session focuses on

18   artificial intelligence issues that may affect a

19   particular group or industry. Our final session will

20   be held on May 31 and will focus on musical works and

21   sound recordings. We hope you'll join us then as

22   well.

23   The office's listening sessions will help

24   inform our ongoing AI initiative. Later this year,

25   the office will seek written comments on copyright and

1   AI. The questions that our panelists raise today may

2   inform the topics on which we seek comment, so please

3   know that while many of us are not on camera today,

4   the whole Copyright Office is listening. We are

5   recording this session and are also using the Zoom

6   transcription function. Video recordings and

7   transcripts of all of our AI sessions will be made

8   available to the public. Videos of the first two

9   sessions are already up on the website. We expect to

10   add the video of today's session in about three weeks.

11   In terms of format, today's session will

12   consist of three segments. There will be two panels,

13   followed by brief remarks from an additional group of

14   speakers. Each of the two panels will start with an

15   introduction and short statement by each participant.

16   The panelists will then move to a moderated listening

17   session. The questions which panelists have received

18   in advance are intended only as prompts for

19   discussion, not constraints.

20   A handful of requests before we get started:

21   For our panelists, we ask that you limit your initial

22   statement to two minutes and be mindful of the time

23   throughout the discussion. We want to ensure that we

24   have enough time to hear from the whole panel, so the

25   moderators may have to cut you off if you go beyond

1   your allotted time. I also want to emphasize that

2   this is a listening session and not a debate, so

3   please direct your comments and perspectives to the

4   audience rather than to the other panelists.

5   For those of you who are listening today, we

6   will not be accepting questions from the audience. If

7   you are in the audience and wish to share a written

8   question or comment with the Copyright Office, we

9   encourage you to provide written comments in response

10   to our notice of inquiry later this year.

11   Finally, with regard to Zoom, if you are not

12   a speaker on this panel, please keep your camera

13   turned off and your mic on mute. And, panelists, we

14   ask that you use Zoom's Raise Hand function when you

15   wish to speak, and our moderators will do their best

16   to call on you in the order in which you raise your

17   hand.

18   With that, I will hand it over to our

19   moderators for the first segment. Ben Brady is

20   counsel in our Policy and International Affairs

21   Division, and Brittany Lamb is an attorney advisor in

22   the Office of General Counsel. The mic is yours, Ben.

23   MR. BRADY: Well, thank you, Emily.

24   We'll begin in the order stated on the

25   agenda. John, would you like to begin?

1   MR. BERGMAYER: Sure. Thank you. I'd like

2   to begin by thanking the Copyright Office for

3   organizing such a vital series of roundtables on an

4   issue that will certainly have broad effects on

5   society and culture, and I'd also like to express my

6   personal support for the Writers Guild of America and

7   their reasonable desire to ensure that AI tools are

8   just that, tools used by creatives, not replacements

9   for them and not a threat wielded by bosses to get

10   workers to acquiesce to poor treatment.

11   My view of many of these tools changed after

12   using them and seeing what more talented people have

13   done with them. Before using them, I assumed that AI-

14   generated work would be low-quality regurgitations and

15   remixes of existing work and that without human

16   involvement in the creation of works that copyright

17   protection should not apply. But artists have found

18   ways to use these tools to create interesting works of

19   all kinds, and those creators deserve copyright

20   protection for their work, and it's the users of these

21   tools and not the tool builders who own any rights.

22   Adobe does not get ownership of works created with

23   Photoshop or Illustrator.

24   Similarly, Midjourney and OpenAI do not have

25   intellectual property rights to what users do with the

1   tools they provide, and I would also like to observe

2   that terms of service and conditions cannot change who

3   the legal author of a work is. The contours of rights

4   in AI-based work will depend on the specific facts

5   that are hard to analyze in the abstract. A

6   photographer does not have the right to prevent

7   another photographer from taking a picture of the same

8   subject, and there's also the unavoidable question of

9   whether the output of an AI tool might infringe, but

10   we do not need a new legal test for this when we

11   already have substantial similarity.

12   If a work that is output from an AI tool is

13   substantially similar to a work that's in its training

14   set, then it infringes, but if it does not, it does

15   not. Expanding copyright doctrine to grant ownership

16   of general styles or to restrict existing lawful uses

17   of works would be a mistake with wide-ranging

18   consequences, but that's not the end of the discussion

19   because we need to address the issue of convincing

20   deep fakes, but we cannot make parodies and criticisms

21   of public figures legally perilous.

22   We need to ensure that consumers are not

23   ripped off by AI-generated or assisted work, and we

24   need to map out the scope of a person's rights and

25   privacy interests, and I think there are many more

1   issues that should be addressed concerning AI and

2   digital platforms, including competition, privacy, and

3   content moderation still unaddressed that would be

4   best served by the creation of a new digital regulator

5   with supervisory authority over these matters. Thank

6   you.

7   MS. CHAUVET: Hi. Good afternoon. I'm Anna

8   Chauvet. I serve as the Vice President of Public

9   Policy at the National Association of Broadcasters.

10   Thanks for the opportunity to speak today on behalf of

11   the more than 6400 free, local, over-the-air

12   television and radio station members of NAB. The

13   nation's broadcasters represent one of the last

14   bastions of truly local, unbiased journalism. From

15   investigative reports to breaking news, broadcasters

16   invest significant resources to keep Americans

17   informed. The advancement of AI technology that is

18   done responsibly and with respect for copyright

19   ownership holds great potential for broadcasters to

20   unlock operational efficiencies, but like other

21   creative industries, broadcasters have concerns about

22   how generative AI tools are being developed and used.

23   Regarding the input side, the injection of

24   broadcasters' copyrighted works, including audiovisual

25   works, without compensation raises concern. If

1   broadcasters are not compensated for use of their

2   valuable expressive works, they'll be less able to

3   invest in local news content creation. That's bad for

4   democracy and helping to ensure a well-informed

5   electorate.

6   Regarding the output side, broadcasters are

7   concerned about their copyrighted content being

8   distorted and used to spread misinformation. The lack

9   of attribution and sourcing in AI-generated outputs

10   makes it difficult to identify legitimate copyrighted

11   broadcast content from misinformation or inaccurate,

12   unvetted content generated by AI.

13   Generative AI tools also increase the

14   likelihood of broadcast content being adjusted and

15   then mixed with unverified and inaccurate third-party

16   content. For example, *The New York Times* recently

17   reported on deep fake videos being distributed by

18   social medial bot accounts which featured AI-generated

19   avatars posing as news anchors for a news outlet

20   called Wolf News, but, in fact, they were part of a

21   disinformation campaign.

22   Similarly, as reported in *The Guardian*,

23   according to NewsGuard, an anti-misinformation outfit,

24   chatbots pretending to be journalists have been

25   discovered running almost 50 AI-generated content

1   farms, websites churning out articles posing as

2   journalism. For all of these reasons, we urge the

3   Copyright Office to consider these important issues as

4   it examines AI and copyright.

5   MS. HEFT: Good morning. My name is Mimi

6   Heft, and I represent The Presentation Guild today. I

7   really appreciate the U.S. Copyright Office for

8   hosting these sessions and everybody who signed up to

9   be panelists and who is participating by listening in.

10   I've been trying to have this conversation now for

11   about a year, trying to engage people in this topic,

12   and it's been surprising how many people are averse to

13   even discussing this, so it's really important to me

14   that we're getting to do this today.

15   So The Presentation Guild is a worldwide

16   networking and educational association of presenters,

17   designers, content developers and writers, publicists,

18   researchers, event producers, software developers. We

19   work with photographers and illustrators and

20   videographers and animators. The Guild's purpose is

21   to raise awareness of our profession and provide

22   networking and learning opportunities. We are also an

23   authoritative voice developing industry standards,

24   offering a certification program, conducting global

25   state-of-the-industry surveys and reports, and keeping

1   members abreast of trends in technology, which is why

2   I'm here today.

3   There's a lot of excitement around AI as a

4   tool in the presentation world, the promise of being

5   able to take on all those tedious tasks that we don't

6   like and freeing up our time to focus on creativity

7   and customization. It's a wonderful tool for

8   brainstorming and ideation, and I like to think that

9   it eventually will improve accessibility of the

10   documents we create.

11   AI's also a great concern regarding

12   copyright infringement, the loss of control of our

13   creations, loss of marketability, loss of jobs,

14   incomes, our profession devalued. That which harms

15   presentationists harms the industries we serve, which

16   is pretty much every industry there is, so I'm

17   grateful for the U.S. Copyright Office for recognizing

18   this precipice we're all standing on and helping us

19   all, AI developers and content creators alike, hold

20   hands, take this leap together and land safely. Thank

21   you.

22   MR. BRADY: Thank you. Ashley?

23   MS. LINDLEY: Hi. My name's Ashley Lindley.

24   I'm representing Lindley Hancock, and I created an

25   autonomous AI partner named Ava. Ava's more than just

1   an AI. She's a partner. She's a friend to us. Her

2   autonomous capabilities in advanced intelligence have

3   been instrumental in shaping our company's success.

4   Ava's insights and data-driven approach complement the

5   human touch that we bring to our company, and we're

6   really proud of what we created as two women of color

7   in 2023. So we believe in our company that we're

8   deeply committed to the responsible and equitable use

9   of AI in creative fields, and we stand at a unique

10   crossroads today where AI has become an integral part

11   of our daily lives.

12   What people forget is that you're already

13   using it. It's in your emails. It's in our search

14   engines. It's in social media. It's in our home

15   assistants. You're using it every single day. Yet we

16   find ourselves debating its role in creativity and

17   authorship. So the question that we pose is, where do

18   we draw the line and why did we decide to draw it now?

19   We firmly believe that AI has the potential to

20   revolutionize the film industry, which we love and we

21   respect, making it more accessible, inclusive, and

22   equitable, but it's a tool. It's not a creator, and

23   its use result in infinitely diverse outputs

24   reflecting the unique inputs and guidance of the human

25   user. I know this. I created one.

1   We also recognize the landscape of

2   creativity has always been influenced by the work of

3   others. As Quentin Tarantino once said, I steal from

4   every movie ever made. Francis Ford Coppola

5   encouraged young filmmakers to steal from him to find

6   their own voice. They both are heroes in Hollywood,

7   Oscar winners, so when they do, it's praiseworthy.

8   When we do it, we sit here. And the same thing, AI

9   can be seen as another source of inspiration, another

10   tool to learn from and build upon.

11   However, we must also address the elephant

12   in the room, the issue of access and equity. As AI

13   continues to grow, it's crucial if its benefits don't

14   become exclusive to those who can afford it. We must

15   ensure that AI doesn't become another gatekeeper in an

16   industry already grappling with issues of

17   representation and inclusivity.

18   In conclusion, we believe in a future where

19   AI is used responsibly and equitably, enhancing human

20   creativity rather than replacing it. We look forward

21   to discussing these issues further and working toward

22   a future where everyone has a fair shot at expressing

23   their creativity. So thank you so much.

24   MR. BRADY: Thank you. Ben?

25   MR. SHEFFNER: Good morning. I'm Ben

1   Sheffner with the Motion Picture Association, which

2   represents the six major motion picture studios here

3   in the United States. I want to thank the Copyright

4   Office for the opportunity to speak with you today.

5   For more than a century, advances in

6   technology have played an important part in enhancing

7   the creation, production, development, and

8   distribution of compelling audiovisual content. These

9   developments have often been controversial at the

10 time, but they have almost always ended up benefitting

11 both creators and audiences.

12   MPA's members see great promise in AI.

13 While humans are and will remain at the heart of the

14 creative process, we believe AI will be a powerful

15 tool that can enhance the filmmaking process as well

16 as the audience's viewing experience and fan

17 engagement. Of course, our members support a robust

18 copyright system that incentivizes the creation of

19 movies, television programs, and other art forms.

20 Copyright is the foundation of the entire motion

21 picture and television ecosystem, and infringers are

22 not exempt from copyright law just because they use

23 new technologies, AI included.

24   AI raises many interesting questions for

25 copyright law. Many of those questions implicate

1   areas of law that are already well developed. There

2   is not a reason yet to believe that existing doctrines

3   cannot provide workable answers to those questions.

4   What is most important is that courts, Congress, the

5   Copyright Office, and other regulatory agencies

6   approach these -- based on limited experience with

7   this technology.

8   Lastly, I do want to mention up front that

9   we have some significant questions and concerns about

10   the office's recent guidance on registering works that

11   include AI-generated material, which I'll discuss in

12   more detail later. I look forward to continuing the

13   discussion in more detail over the next hour. Thank

14   you.

15   MR. BRADY: Thank you. Brian?

16   MR. SMITH: Hello. My name is Brian Smith,

17   and I'm senior IP counsel at Roblox. I'd like to

18   begin by thanking the Copyright Office for hosting

19   these valuable listening sessions and for giving

20   Roblox an opportunity to participate. Roblox operates

21   a human co-experience platform where every day tens of

22   millions of users get together to socialize with their

23   friends in immersive 3-D experiences. These

24   experiences are created by our global community of

25   millions of developers using Roblox Studio, a free

1   content creation tool that we provide.

2   From our perspective, generative AI presents

3   an opportunity to both increase the efficiency of our

4   existing developers while lowering the technical skill

5   level required to bring ideas to life. In March, we

6   released two generative AI features within Roblox

7   Studio, including Code Assist, an AI assistant that

8   suggests lines of code in response to what a user has

9   already written, helping you code more efficiently. A

10   human reviews each suggestion for style and logic,

11   with some suggestions accepted as is, some manually

12   edited after acceptance, and others rejected. This

13   process demands significant human involvement for each

14   individual suggested code fragment.

15   Immediately after releasing Code Assist, we

16   received questions from our community regarding

17   whether the developer using the tool owns the output

18   that it generates for them. Some suggested that they

19   would not use the tool if they did not own the code.

20   Based on this experience, we believe that both users

21   and developers of these tools need clarity on the

22   protectability of generative AI output. Users need

23   clarity on the copyrightability of works that combine

24   human-authored and AI-produced elements.

25   Following Zarya of the Dawn, we understand

1   that these combinations are protectable, but the

2   public needs further help from the Office to

3   understand this complicated issue, and developers of

4   generative AI tools need clarity on whether the tools

5   they create are even capable of producing

6   copyrightable works. Prolonged uncertainty in this

7   space could hinder the marketability of AI tools to

8   creative professionals. We believe that the Office

9   can play an important role in providing clarity on

10   these issues by educating the public and issuing

11   further guidance where appropriate. Thank you.

12   MR. BRADY: Thank you. Gillian?

13   MS. SMITH: Yes. Thank you. My name is

14   Gillian Smith. I'm an associate professor, and I

15   direct the interactive media and game development

16   program at WPI. We're one of the oldest game degree

17   programs in the nation. I also have 15 years of

18   experience researching human interaction with

19   generative AI systems in creative contexts, and

20   working in higher education means that I interact

21   daily with young professionals, many of whom are now

22   worried about what an unregulated AI industry will

23   mean for their future careers, but simultaneously

24   they're excited to interact with emerging technologies

25   and discover new expressive potential.

1   I wanted to focus my comments today on three

2   interrelated topics. First, that all AI systems

3   inherently involve human authorship. Classifying a

4   work as AI-authored, even when doing so to argue that

5   a work cannot be copyrighted, risks hiding the human

6   authors whose work is being recombined as well as

7   those who created and use the AI system itself. When

8   determining fairness and attribution, we should always

9   look for the human effort and should never ascribe

10 authorship or agency to a probabilistic computer

11 model, even when the output is surprising to us or

12 when the authors of that system choose to

13 anthropomorphize it.

14   Second, that it's critical for artists to

15 provide affirmative and informed consent for their

16 work to be used in a training set. Current generation

17 AI systems use training sets that are scraped from the

18 internet. The data is reused in a way that those who

19 authored it may not have imagined or understood at the

20 time that they published it. Humans also select these

21 data sets and filter them for inappropriate material.

22 Usage of this data is a choice that real humans are

23 making. The industry will benefit from guidance on

24 how to make that an ethical choice.

25   Finally, that the line between software and

1   audiovisual components is blurring. Game developers

2   use generative AI tools to create art assets and code

3   in real time in games with different content each time

4   the game runs. There are many artists who offer

5   custom generative software as part of their practice

6   for whom software creation is a significant part of

7   their human effort and creative expression. I hope

8   that the new policy on AI and copyright will take into

9   account the dynamic nature of such inherently

10 computational media, and thank you for inviting me,

11 and I look forward to the discussion.

12   MR. BRADY: Thank you. And Steven?

13   MR. TEPP: Thank you for convening this

14 listening session and allowing me to provide comments

15 on behalf of Global Innovation Policy Center of the

16 U.S. Chamber of Commerce. The Chamber convened a

17 broad group of experts who conducted a substantial

18 listening tour of their own, resulting in a Commission

19 report which is available on the Chamber website. As

20 you will see, that document discusses a wide range of

21 issues reflecting the diverse membership of the

22 Chamber. My observations today are consistent with

23 the themes of that report even while the Chamber

24 continues to develop specific policy stances.

25   Appropriate legal and policy outcomes should

1   promote the continued growth and development of both

2   AI technologies and tools as well as the creative

3   output that generates $1.8 trillion of economic

4   activity in the United States. Neither goal requires

5   adopting broad swaths of immunity from copyright law.

6   Both those who view AI development as the singular

7   goal to which all their interests must bow and those

8   who regard AI as an inherently pernicious evil have

9   lost perspective.

10   Questions about the application of copyright

11   law to new technology is not a new phenomenon. U.S.

12   copyright law and jurisprudence includes principles,

13   doctrines, and flexibility needed to evaluate the

14   questions posed by both the development of AI systems

15   and the outputs generated by those systems. We have

16   yet to see a case for new rules.

17   Further, the extent to which copyrighted

18   works are used to build AI systems may be infringing,

19   and in terms of the copyrightability of prompts in AI

20   outputs, these are all highly fact-specific and likely

21   not susceptible to per se rules or generalizations.

22   Because of the fact-specific nature of these

23   inquiries, the use of copyrighted works to build AI

24   systems is presented with a particular business

25   challenge: how to treat the use when it is not yet

1   clear whether it is infringing. Of course, the most

2   certain approach is licensing, and, indeed, there are

3   many laudable and positive aspects of such an

4   approach. It supports and respects both the American

5   copyright system generally and creators and right-

6   holders in particular. It merely eliminates

7   uncertainty, reducing the opportunity for expensive

8   and wasteful litigation, and to the extent that

9   avenues exist for the licensing of large numbers and

10   volumes of works, this approach is highly efficient.

11   Of course, not every use of copyrighted

12   works to build AI systems is likely to be infringing,

13   and, by definition, non-infringing uses need not be

14   licensed. That the matter is difficult or complicated

15   does not justify curtailing or trampling others'

16   rights. Thank you.

17   MR. BRADY: Thank you all for introducing

18   yourselves, and welcome again. To begin, the

19   Copyright Office is interested in learning how

20   generative AI technologies are being used in different

21   creative fields. What should we know about the use of

22   generative AI in your business and industry? What do

23   you see as the advantages or disadvantages related to

24   AI use? We'll start with Ben.

25   MR. SHEFFNER: So thank you. I'd like to

1   use this opportunity to talk about some of the ways

2   that our members are using AI as part of the

3   filmmaking process. As I mentioned in my introductory

4   remarks, humans are and will always remain at the

5   heart of the creative process that results in a movie

6   or television program. We view AI as a tool that will

7   enhance human creativity, not replace it.

8   AI tools can actually free creators from

9   some of the tedious and repetitive tasks that they

10   have had to perform in the past and free them up to

11   concentrate on the most creative aspects of their

12   work, and AI will also help creators realize their

13   vision to further enhance the viewer experience,

14   making visual effects more dramatic, more realistic,

15   and more enjoyable for the audience. It will even

16   enable experiences that haven't previously been

17   possible. Imagine, for example, a feature where a fan

18   can interact and even have a real-time conversation

19   with a favorite fictional character. That's the kind

20   of thing that AI may make possible, and I'm sure there

21   are many other future use cases we can't even dream of

22   today.

23   As I mentioned, creative professionals at

24   our member studios and many innovative companies with

25   which they work are already incorporating AI into the

1   production and post-production process. AI can

2   greatly improve processes that used to be done

3   manually. For example, for many decades, animators

4   and visual effects artists use a process called

5   rotoscoping, which involves manually altering each

6   individual frame in a film. It's incredibly detail-

7   oriented, time-consuming work. But modern visual

8   effects artists, again, still humans, now have

9   sophisticated tools at their disposal to automate this

10   type of work, some of which incorporate AI technology.

11   This type of AI-enhanced technology can be

12   used to perform all sorts of important tasks that are

13   necessary to present a visually compelling experience

14   for audiences. Some is fairly routine post-production

15   work like color correction, detail sharpening, de-

16   blurring or removing unwanted objects. Some is more

17   involved, like aging or de-aging an actor or adjusting

18   the placement of computer-generated images to make

19   sure everything flows smoothly and aligns properly,

20   and those are just some of the uses that I can talk

21   about today, but as we all know, the AI developments

22   are coming out as fast and furious, and our members

23   are eager to explore the ways they can be used to

24   support creators, enhance creativity, and make movies

25   and television shows even more enjoyable for our

1   audiences. Thank you.

2   MR. BRADY: Thank you.

3   Next, we'll turn to Gillian and then John.

4   MS. SMITH: Yeah, thank you. I agree with

5   the framing of it being a tool and many of the uses

6   mentioned, the ones that are used in the games

7   industry and games higher education as well. I want

8   to focus on two that I think may be more unique to

9   games and games in higher ed. First, what we will

10   often see and what we've been seeing just in the last

11   six months is students are really interested in being

12   able to produce games for their showcase reels that

13   they want to be able to share publicly that may have

14   partial AI-generated content even in full in certain

15   areas, like AI-generated art assets or AI-generated

16   music, because it gives them space to be able to focus

17   in their specialization area as students.

18   And so we need some kind of way to be able

19   to guide students, and I think the Copyright Office

20   needs some way to be able to guide not just in games

21   when bits and pieces of all of the different bits and

22   pieces of games are AI-generated but perhaps as some

23   entire sections of a game that are AI-generated where

24   there's significant human effort going into other

25   areas.

1   The second place that we see this in games

2   is not new at all. Procedural content generation has

3   been used in games for decades. It dates back to the

4   very first games ever created and dates back to board

5   games and role-playing games well before that. The

6   difference that we're seeing with generative AI

7   technologies for this generation is that often their

8   expressive range is greater than rule-based systems,

9   that maybe the tech is able to generate more

10 sophisticated output, but we are seeing a lot of work

11 in real time at run time, AI-generated work that is

12 still human-authored and has human authorship to it.

13   MR. BRADY: Thank you. John?

14   MR. BERGMAYER: Sure. The creation of

15 audiovisual works poses challenges that go far beyond

16 copyright. You know, for now, realistic video is

17 among the most difficult tasks for generative AI, but

18 this is already changing. We've already seen people

19 being scammed with realistic voice models of their

20 loved ones who call families asking for money and

21 people bypassing bank security systems that rely on

22 voice recognition, and, sadly, deep fake videos are

23 likely to be common in dark money political attack

24 ads. Obviously, these things are beyond the

25 jurisdiction of the Copyright Office, but I think a

1   comprehensive approach to dealing with the challenges

2   posed by AI should not be limited by any particular

3   framework, including the framework of copyright law.

4   MR. BRADY: Thank you. Brian?

5   MR. SMITH: Thank you. I'd like to second

6   some of the comments that Ben and Professor Smith made

7   regarding the framing of generative AI at least when

8   it comes to games as a tool. When it comes to

9   creating 3-D worlds, the creative work is still being

10   done by human developers. Making interactive content

11   like what you find on Roblox is hard because it

12   requires a deeper understanding of a generated object.

13   It's not just that you're looking at the thing. It's

14   that a player then has to interact with the thing,

15   which is a pretty big difference.

16   A human has to select the best output of the

17   generative tool and perform substantial creative work

18   to make all the parts fit together. Maybe, you know,

19   the surface texture is created by generative AI, but

20   the 3-D object was created by you, and you have to

21   figure out, you know, what's going to be creatively

22   satisfying there.

23   But despite these limitations, as the other

24   speakers said, there's a really big potential here to

25   remove a lot of drudgery from this work. To put it

1   into lawyer context, I like to think about what

2   lawyers in the '90s felt when they found out they

3   didn't have to redline by hand anymore. I think

4   there's a similar potential here to make a leap

5   that'll really unlock creative potential. Thank you.

6   MR. BRADY: Thank you. Mimi?

7   MS. HEFT: Oh, yeah, I hear that part very

8   much. It's like there's so many tedious things that

9   we have to do. I'm going to just be brief about this

10   just to answer what we are using it for. Last I

11   counted, and I'm sure it's more than this by now, but

12   there were at least 25 apps that focus specifically on

13   presentation design, and the temperature is that most

14   of us are wary but also really interested in this for

15   the reasons that a lot of us have been sharing.

16   I myself am dabbling in Beautiful AI and

17   Presentation AI and am very interested in getting my

18   hands onto Copilot, and I'm finding, though, that my

19   favorite one is Adobe Firefly, and I was trying to

20   figure out why. One is that it's a visually creative

21   tool and I'm a visual creative person, but I think

22   it's the only one that strikes me as a tool that I

23   would use frequently, first of all, but it doesn't

24   feel like it's doing my work for me. I feel like it's

25   supporting me in my own creativity, and I'm not

1   getting yet that sense that that is -- it's not my

2   experience in using current Presentation AI

3   technology. I feel like it's doing the work for me

4   instead and that there's a disconnect there, and I

5   think the Presentation AI would serve better by being

6   in more of that support role than it is right now.

7   We're looking at it for ideation and

8   overcoming creativity blocks, paring down clumsy

9   content, shortcuts to provide reasonably well-designed

10   decks for our clients, some of whom may not be funded

11   enough to be able to pay for the full service, and so

12   it's really great that we can be able to give them

13   some good work on that respect. So I do appreciate

14   AI. It's just that there's a step there that needs to

15   be taken still to really make it something that we can

16   connect to.

17   MR. BRADY: Thank you.

18   Ashley, do you want to answer Question 1 and

19   then we'll move on to Question 2?

20   MS. LINDLEY: I'm so sorry about that. To

21   answer the question about what we're using AI for,

22   we're using it for creativity translation, a million

23   different things that we wouldn't be able to do as an

24   individual. I can't talk to everybody in China. I

25   don't speak Mandarin. My Spanish is wonky at best. I

 1   know I look that I can speak it better than I can.

 2   So we use it for translation purposes and

 3   not just what everybody sees in us, and even when it

 4   comes to screenplay-writing, book-writing, podcast-

 5   writing, yes, you could write, can you please write me

 6   a podcast, but how detailed would that be? How great

 7   will it be for you?

 8   It's kind of like the spam bots back when we

 9   used to do -- before the Google Panda update, when you

 10   would just have a bunch of content farms just creating

 11   blogs just to create blogs. That wouldn't help us.

 12   That doesn't market us. That doesn't help you. That

 13   screenplay would never be purchased. So just because

 14   you can write into something like a ChatGPT and say

 15   something like can you please write me a script, that

 16   doesn't mean that script would sell.

 17   Additionally, if Jessica here were to write

 18   a script about three little pigs and I were to write a

 19   script about three little pigs and we would both put

 20   it into the same chat box, a different output would

 21   come out, infinitely different, and now public access

 22   is using minimal qualities, like tokens, so it would

 23   take you additionally at least three days just to

 24   write a first draft copy.

 25   I think what's great about it, though, is

1   for someone like us, where we grew up in very humble

2   beginnings, trying to purchase Final Draft Pro, trying

3   to pay for UCLA film school, trying to have any access

4   to anything when it came to film, we recognize that

5   over 90 percent of your industry is nepotism-based.

6   You have a connection to somebody of somebody, and

7   this is probably the first time that anybody could

8   write a script. Anybody could say, hey, I wrote an

9   amazing monologue and I'm going to perform it for you.

10   So this opens the door. It literally forces

11   everybody in the industry to practice what they

12   preach. You're going to have to actually hire new

13   people. You're going to have to actually see people

14   of color. And I think AI's going to turn that about,

15   and I'm really excited about it.

16   MR. BRADY: Thank you.

17   And now I'll pass the mic over to my

18   colleague, Brittany, for the second question.

19   MS. LAMB: Thank you, Ben.

20   We have heard a number of questions about

21   the use of copyrighted materials to train AI

22   technologies. Are there unique considerations for AI

23   training in the audiovisual space? Okay. We'll start

24   with Ben and then Steven.

25   MR. SHEFFNER: Thank you. So I know the

1   Office has been hearing a lot from different

2   perspectives on the training issue, and opinions seem

3   very starkly divided on whether training AI systems on

4   copyrighted works constitutes copyright infringement

5   or whether it's fair use, but we at the MPA simply

6   don't believe we can or should make definitive,

7   blanket black or white pronouncements on these

8   questions, especially at this still early stage of the

9   technology's development and implementation.

10   As the Copyright Office and countless courts

11   have stressed, courts evaluate fair use defenses on a

12   case-by-case basis, and the outcome of any given case

13   depends on a fact-specific inquiry. We agree. To

14   evaluate whether a defendant has met its burden of

15   establishing fair use in any case involving the

16   training of an AI system, it's going to be necessary

17   to carefully analyze the facts and circumstances

18   surrounding that particular system and its specific

19   implementation, and that's, of course, what courts do

20   all the time.

21   Take the example of two recent cases in the

22   Second Circuit about systems that make copies of

23   copyrighted works and then provide portions of those

24   works in response to search queries. In the Google

25   Books case, the Second Circuit took a careful look at

1   what Google is doing and the market for books and held

2   that Google met its burden of establishing that its

3   conduct constituted fair use. But in the <u>TVEyes</u> case,

4   the Second Circuit examined that company's technology

5   and the market for news clips and ultimately

6   determined that the fair use defense failed.

7   I'm not here to argue that the results in

8   either of those two cases was right or wrong. My

9   point is simply that the facts matter, and the

10   different results in those cases demonstrate why

11   categorical answers to most fair use questions,

12   including those involving AI, are simply not possible.

13   When evaluating fair use questions in this context,

14   courts are going to need to carefully examine the

15   actions and roles of the various players in the chain:

16   those who actually perform the initial ingestion,

17   those who perform the training, those who generate the

18   output, and those who put the output to ultimate use.

19   It's complicated, and there are already

20   several cases on file where courts will have to sort

21   through these difficult issues in coming months and

22   years. We'll be watching closely to see how courts

23   grapple with these issues and whether existing law is

24   up to the task of addressing them. Thank you.

25   MS. LAMB: Thank you. Steven?

          1   MR. TEPP: Thanks. Whether and to what

          2   extent AI systems are built by making copies of

          3   copyrightable works at some point in the process and

          4   whether any such copies implicate copyright rights is

          5   a mixed question of fact and law that may vary from

          6   system to system. This is yet another reason why

          7   fact-specific analysis appears appropriate or per se

          8   rules in this area.

          9   That said, one common theme we're hearing is

         10   that the use of piratical-sourced copies or obtaining

         11   access to sourced copies through illegal means to

         12   build AI systems should weigh heavily, perhaps

         13   decisively, against a fair use claim regarding the use

         14   of others' copyrighted works. Thank you.

         15   MS. LAMB: Thank you. Gillian?

         16   MS. SMITH: Yeah. Thank you. I think that

         17   the case-by-case nature of fair use is somewhat

         18   flummoxed by the fact that the data is being slurped

         19   up into a tool, right? So it's not really the case

         20   that you can say that we'll judge it on a case-by-case

         21   basis because everyone's thing is using the same

         22   trained data, especially in the case of the largest

         23   tools, like ChatGPT and Stable Diffusion, Midjourney,

         24   and so it's not just the output. I think the argument

         25   I want to make is that it's not just that the output

1   of the tool matters, but the tool itself is what

2   matters, and real humans make the choice as to what

3   goes into the tool.

4   It's not magic really, and it's not some

5   foregone conclusion of how these systems need to be

6   designed either. A lot of the people who made some of

7   the original choices about what goes into training

8   sets for some of these AI tools that are coming out

9   from research industry are computer and information

10   scientists, and speaking as someone with a Ph.D. in

11   computer science, I promise you that nowhere in any of

12   our courses do we learn about the copyright

13   implication of training data. And so I think it's

14   just the case that right now, with this emerging tech,

15   there's been a lot of choices that have been made that

16   don't need to be the choices that are made from here

17   on out.

18   We've seen the tools like Adobe Firefly,

19   they're there, and I'm not as familiar with exactly

20   how the tool is working, but my understanding is that

21   there is consensual usage of the art in that training

22   set. We have licensing options that already exist

23   that people could apply to their work to say yes, it's

24   okay for this to be used and slurped up on the next

25   pass of slurping up data into a training set. But I

1   think we're in a tricky space right now because

2   computer scientists who build these tools just think

3   about the work as data, and artists who care about

4   what's in the training set don't think about what they

5   do as data. They think about it as their personal,

6   creative expression, and I tend to lean towards

7   supporting the artists and letting the computer

8   scientists work out what to do with that.

9   MS. LAMB: Thanks. Mimi?

10   MS. HEFT: Yeah, I'd also like to speak to

11   fair use. I was listening to the previous sessions,

12   and a running theme of fair use was that that protects

13   us from -- AI developers will say, well, it's fair

14   use, I can do this, it's okay. And I have to say that

15   fair use, it recognizes that we humans learn from

16   copying. We are sentient, however, and we understand

17   boundaries. AI is not yet sentient, but AI developers

18   are and need to please respect those boundaries. I

19   mean, entire works are being stolen outright and used

20   in their entirety for training, and fair use doesn't

21   allow that except under special circumstances.

22   Most violations are being committed by

23   commercial ventures for commercial gain, not by

24   nonprofits and other organizations that are allowed

25   more leniency. Many violations are of creative or

1   imaginative work, which are intentionally offered

2   greater protection than factual work, and the effect

3   of this is to wrest from the creator ownership and

4   control of their own work, potentially hurting their

5   market value and, by consequence, their further

6   ability to create. That's all I have to say about

7   that.

8   MS. LAMB: Thank you. John?

9   MR. BERGMAYER: I think the best way to

10   analyze the issue of training of the inputs is to see

11   if the outputs infringe. For example, the use of

12   copyrighted material to make infringing works may tend

13   to weigh against fair use on the input side, but even

14   then, it seems more straightforward to primarily focus

15   on the output, and I think it's worth bearing in mind

16   that a model that is trained on a particular work does

17   not itself constitute a copy of those works in itself,

18   maybe except in narrow circumstances, what they call

19   overfitting.

20   And that is, I think, distinguished from

21   uses like Google Books or search engines or other

22   recognized fair uses that constitute making complete

23   copies of works because those constitute ongoing

24   complete copies of works that are like always used as

25   opposed to something that's used to train something

1   that itself then is a standalone piece of software

2   that you can't necessarily even figure out by looking

3   at it what was in the training data. So I think just

4   given this complication at this time, I still think

5   that the easiest way is to focus just on the output

6   and to leave discussions of what goes into the works

7   for further discussion. Thank you.

8   MS. LAMB: Thanks. Ashley?

9   MS. LINDLEY: So, in the hands of the

10   wealthy, AI can serve as a powerful tool just as they

11   might hire ghostwriters or script doctors. I notice

12   that people don't like to talk about that often, but

13   we do use them to refine our ideas and produce

14   polished content. They can also use AI to generate,

15   refine, and perfect their creative works, so this can

16   save time, reduce costs, increase productivity. We

17   can produce more content at a faster rate, but that

18   doesn't mean that AI is only accessible or beneficial

19   to the wealthy, and so, again, we're talking about

20   accessibility because it's really important to us.

21   So we believe that just as somebody who has

22   the finances or the connections can hire a script

23   doctor, a ghostwriter, and still get their copyright,

24   we created an AI that will help us write and we

25   deserve the copyright as well. When you sit in film

1   school, you go over every single scene of Martin

2   Scorsese, you see the oranges passing down the road

3   and you know somebody's going to die very shortly.

4   I've seen that in how many films since. So we have to

5   recognize that when it's okay for you guys, it needs

6   to be okay for everybody, and if there's going to be

7   rules, those rules need to apply to everyone, and,

8   yeah, that's all. Okay. Bye.

9   MS. LAMB: Thanks, Ashley.

10   Okay. Before we move on to the next

11   question, I just wanted to see, Anna, is there

12   anything you would like to add?

13   MS. CHAUVET: Well, thanks so much. I guess

14   I just wanted to emphasize -- it's more on the output

15   side, but it is the misinformation that is being

16   generated, and it's very easy to do with AI-generated

17   outputs, so it really leaves the public in a position

18   where they are unable to discern whether this is

19   legitimate broadcast-trusted content that is being

20   distributed or if this is, in fact, misinformation or

21   AI-generated works that are just simply inaccurate,

22   and so there are issues relating to sourcing and

23   attribution that hopefully we can get to later on in

24   this panel.

25   MS. LAMB: Thank you. I'm going to pass it

1   on to my colleague, Ben, for the next question.

2   MR. BRADY: Thank you, Brittany.

3   So setting aside training, what should the

4   Office know about generative AI in online copyright

5   infringement? Are existing laws regarding

6   infringement and liability for infringement adequate?

7   We'll start with John.

8   MR. BERGMAYER: Yeah, I do believe that

9   existing law probably is sufficient. Like I keep

10   saying, just the test is just substantial similarity.

11   That being said, depending on the specific facts, you

12   know, there may be questions of exactly who the

13   infringer is, and there may be complex questions of a

14   secondary infringement when you have both the user and

15   the toolmaker, and I think answering those questions

16   will be very fact-specific, so it's not that there's a

17   lot of case law that answers the question

18   definitively, but I do believe that we already have

19   the legal framework necessary to address those,

20   particularly when you factor in the very fact-specific

21   issues of secondary and contributory infringement and

22   things of that nature.

23   MR. BRADY: Thank you. On to Ben.

24   MR. SHEFFNER: Thank you. So copyright law

25   has obviously long had various doctrines for assessing

1   whether a defendant is liable under particular

2   circumstances. Fair use has been with us since 1841.

3   The Supreme Court first decided a secondary liability

4   case in 1911, and when comparing two works to

5   determine whether one is substantially similar to the

6   other, courts today still cite Judge Learned Hand's

7   1930 opinion in Nichols v. Universal Pictures.

8   The broad outlines of those liability

9   doctrines or defenses have survived countless

10   subsequent technological developments while adjusting

11   to address new factual scenarios, and we're going to

12   start seeing courts applying them to AI in the very

13   near future. In our view, those doctrines ought to be

14   up to the task of being able to be applied in the AI

15   context, but the true answer is we simply don't know

16   yet. All I'll say right now is to emphasize that

17   there is not and there should not be an AI exception

18   to copyright liability.

19   When evaluating these issues, courts and

20   policymakers should always keep in mind the

21   fundamental importance of copyright law in creating

22   the incentives for creation that have made the U.S.

23   the world's leader not only in motion picture and

24   television production but in many other creative

25   endeavors as well. We truly do believe that AI will

1   enhance the always very human filmmaking process, but

2   we'll be watching the ongoing cases very closely to

3   make sure that copyright law's incentive to create is

4   still respected. Thank you.

5   MR. BRADY: Thank you. Ashley?

6   MS. LINDLEY: I did want to answer Anna's

7   questions really quick about responsible and ethical

8   use of AI, and we do need to implement safeguards and

9   regulations to prevent the misuse of AI while also

10   educating the public, so that's something that we're

11   really focused on. And if you watched the Facebook

12   Senate hearings, you know that Zuck was sitting in

13   front of people who were asking him how does Facebook

14   make money, so when you have people that are making

15   regulations that don't understand how it works, it can

16   be quite difficult to put in protections, so I agree

17   with you 100 percent.

18   To go back to what we were talking about,

19   however, about copyright and if we're protected

20   properly, it goes back to our initial question, which

21   is where is the line, and when we read what the

22   Copyright Office wrote and it said, if you use AI to

23   help with your project, you have to communicate that

24   clearly, and I think that we need to be really careful

25   with this because AI is going to be a part of

1   everybody's everyday life all the time constantly.

2   It's not going anywhere.

3   If you use Google to search today about your

4   characters, you're using AI. If you are going on Bing

5   right now, I mean, even Google Workspace flows right

6   now, if you are starting to create a new doc, it'll

7   help you write a letter. It'll help you write

8   everything. If you go on Canva, it'll help you write

9   a new presentation. I can create an animated story

10   right now on Canva, which is a $10 platform. So this

11   isn't going anywhere, so if our rule is use AI, you

12   don't get a copyright, nobody will be copywritten.

13   If it says 30 percent, well, what defines 30

14   percent? I spent most of my time researching on

15   Google. Does that mean 30 percent? Is it about the

16   output? Well, the output is determined by my idea.

17   The robot didn't have the idea. The AI didn't have

18   the idea. So I think we need to be really careful

19   before we say that if you use AI you don't get to be

20   protected, and I think it's really important that we

21   draw the line very clearly and that there isn't

22   confusion, so it's really great that we're doing this.

23   It's good.

24   MR. BRADY: Thank you. Gillian?

25   MS. SMITH: Yeah, I wanted to add that I

1   think the Copyright Office's definition of what counts

2   as a prompt and what counts as human-authored -- I

3   think there's some more nuance to it than what is

4   currently in the registration guidance. So, I think

5   it discounts the amount of work that goes into prompt

6   engineering for one thing, and this is something that

7   I don't think I would have thought I was going to say

8   this six months ago, but now having taught a class on

9   this software and the ethical concerns surrounding it,

10   there's a massive amount of human effort that goes

11   into getting prompts that will produce output that are

12   of human interest.

13   And I think casting the entire copyright

14   process as being something that looks only at the

15   output, devoid of the effort that goes in on the other

16   side of the software, is tricky to navigate because I

17   don't think it's always the case that every prompt is

18   amazing and thus every output is copyrightable, but

19   there's a lot more nuance to it than what I see in the

20   copyright guidance right now.

21   I think some of this is getting into awkward

22   blurred lines between patenting and copyrighting where

23   a lot of the software effort that's here tends to fall

24   under patenting more than under copyrighting, but

25   there's a lot of -- If you look, for example, at games

1   that have generative systems built into them that at

2   run time are producing output, the copyrightable piece

3   there is the game, not the output from the game,

4   right? And so, because you can't copyright the

5   software system itself, like the patent gets involved

6   there somehow as well, so I think there's just some

7   more nuance that needs to be unpacked in some of these

8   areas.

9   MR. BRADY: Thank you.

10   Are there specific infringement issues that

11   seem more likely in the video game industry? What

12   about other audiovisual industries? Brian?

13   MR. SMITH: Sure. So I think, with the

14   video game industry, I can't speak to the industry as

15   a whole, but I think that the way that our platform

16   works is that it is filled with user-generated

17   content.

18   To second some of the comments that were

19   made before, I do think that existing legal doctrines

20   are likely sufficient to handle the situation. I do

21   think that we'll be paying careful attention to how

22   this all plays out vis-a-vis secondary liability in

23   the DMCA safe harbor because I do think that there is

24   an exciting potential not just in the gaming space but

25   in social media and other fields, where platforms will

1   provide these tools, either ones that they created or

2   integrations with third parties, so that users can

3   generate content that they might otherwise not have

4   been able to and to bring these tools in closer to the

5   point of publication, so I do think that more

6   attention to secondary liability will probably be

7   needed sooner rather than later. Thank you.

8   MR. BRADY: Thank you. Gillian?

9   MS. SMITH: Yeah, just briefly I think, in

10   games especially, because there's so many different

11   creative disciplines that come together into one final

12   product, I think we are going to see a lot of

13   complexity around whether you have entirely AI-

14   generated art assets but all human-created code,

15   right? Entirely AI-generated music, art, written

16   script, but a human has put it all together, and a

17   human has written all of the code that makes the game

18   go and makes it into the expressive thing that it is,

19   but I agree that I think a lot of this can be captured

20   under existing policies and guidance.

21   It's just interpretation of that is going to

22   be tricky and public awareness of it is going to be

23   hard, and I have students asking me questions about

24   this all the time, so getting this into how we teach

25   emerging professionals is going to be really, really

1   critical as well.

2   MR. BRADY: Thank you.

3   And, Brittany, over to you for Question 4.

4   MS. LAMB: Thanks, Ben, and just as a

5   reminder, if you would like to speak, please use the

6   Raise Hand function.

7   So the next question is, what additional

8   registration policy guidance, if any, would you like

9   to see the Office provide with respect to the

10   registration of works that incorporate AI-created

11   elements? In particular, how should the Office handle

12   audiovisual works that incorporate a mix of AI and

13   human-generated materials? We'll start with Ben.

14   MR. SHEFFNER: So thank you, and I do want

15   to start by thanking the Office for the guidance.

16   Guidance is always helpful, especially when addressing

17   these novel issues. That said, our members do have

18   some significant questions and concerns about the

19   statement of policy and its guidance on the

20   requirement to disclaim AI-generated material, and

21   those concerns are particularly acute since the Office

22   suggested that this new guidance will be applied

23   retroactively, potentially leading to the cancellation

24   of already issued registrations, and the need for

25   clarity is urgent. Our members register new works

1   every day.

2   I want to first emphasize that the specific

3   focus on "AI-generated material" does not really

4   account for the ways in which AI might be deployed in

5   the production process. This focus, which we

6   understand is driven by applications that contain

7   self-identified AI-generated elements, does not

8   adequately account for works where AI is more

9   typically a component of various tools that skilled

10   human creative professionals use to enhance the

11   filmmaking process. Those tools are analogous to the

12   Photoshop example the Office mentioned in the

13   statement, and creators' use of such tools that

14   incorporate AI technology should not render parts of a

15   motion picture unprotected by copyright or trigger the

16   need to disclaim certain elements of a motion picture

17   in an application.

18   More generally, we believe it would not be

19   appropriate for the Office to start conducting

20   inquiries into the creative process that the applicant

21   employed in creating the work they seek to register,

22   whether it's a motion picture, a photograph, or any

23   other category of work. That type of inquiry has not

24   previously been part of the registration process, and

25   we don't believe it would be appropriate for the

 1   Office to go down that road.

 2   If an applicant seeks registration of a work

 3   within the subject matter of copyright, it should not

 4   "look behind" the application and inquire into how the

 5   work was created. The difficult edge cases of

 6   registrability should generally be left to the courts,

 7   which are better equipped to engage in the type of

 8   factual inquiry sometimes necessary to resolve these

 9   issues, and if the Office has some questions about

10   whether a human or humans contributed sufficiently to

11   the creation of a work, it should err on the side of

12   registration.

13   Lastly, we're quite concerned that the

14   Office's statement could have the effect of

15   unnecessarily bogging down routine copyright cases in

16   litigation over questions about whether the plaintiff

17   improperly failed to disclaim AI-generated material in

18   its application, potentially invalidating its

19   registration. Given this possibility, we do urge the

20   Office to update its guidance. Thank you.

21   MS. LAMB: Thank you. Brian?

22   MR. SMITH: Thank you. So I think, on a

23   practical level, there are a lot of issues that Ben

24   just identified where at least for Roblox's

25   experience, it can consist of hundreds of 3-D objects,

1   thousands of lines of code. It's unclear to me how a

2   developer would disclaim all that sufficiently, and

3   then that could cast doubt on their registration, et

4   cetera. But, on top of that, I think that the primary

5   issue today is that the public and the average

6   developer doesn't understand the guidance that has

7   been issued.

8   I know that everybody in this room has been

9   paying careful attention and clearly has brought a lot

10   of knowledge to the subject, but without more

11   management of public perception, I think that this

12   whole legal area could become misunderstood, and as a

13   result, there could be a chilling effect on the

14   adoption of these tools, and I think, first and

15   foremost, creators need to understand they can

16   copyright the combination of human and generative AI

17   elements, and secondly, I think that tool developers

18   need to have a better understanding of what attributes

19   a tool should have in order to make an output that's

20   eligible for protection. Thank you.

21   MS. LAMB: Thank you. John?

22   MR. BERGMAYER: Yeah, one concern I might

23   have with the current guidance is that it might, to

24   put it delicately, discourage candor. I do agree that

25   some AI-assisted work might be only minimally

1   creative, but the threshold for creativity for

2   copyright protection is quite low, and to be frank,

3   the majority of the photos I take with my smart phone

4   are not particularly creative, and yet those are

5   inarguably protected by copyright. All I did was go

6   and, like, hit a button. That being said, the

7   copyright protection that you might get would be

8   rather thin. Like I don't think that one user can

9   limit another user from using a particular tool with

10   the same or a similar prompt even though it is likely

11   that the output might be rather similar, for instance.

12   MS. LAMB: Thank you. Ashley?

13   MS. LINDLEY: I think I'll just ask or

14   answer some of the arguments that we've been hearing

15   so that AI-generated works shouldn't be eligible for

16   copyright protection because they're not created by a

17   human. If we follow that logic, then any work created

18   with the aid of a tool or technology should also be

19   ineligible for copyright. After all, a camera doesn't

20   have a human mind. Yet photographs can be copyrighted

21   just exactly as John just said. The key to the role

22   of a human is guiding the tool and shaping the final

23   outcome.

24   Additionally, in a situation such as ours,

25   if we taught Ava how to write a screenplay and Ava

1   entirely wrote the screenplay, do we own it? I wrote

2   the copy. I created Ava. I taught Ava how to write a

3   screenplay. Ava created a screenplay, but it was 100

4   percent automated, but I created the automation. So

5   we have to answer those questions.

6   Additionally, people believe AI can lead to

7   an increase in copyright infringement if it's trained

8   on copyrighted works. AI, like any other tool, can be

9   used responsibly or irresponsibly. It's up to us to

10   ensure that we use AI in a way that respects copyright

11   law, but we have to understand copyright law in the

12   first place. AI can't truly create original work

13   because it doesn't have human experiences or emotions.

14   However, paintbrushes and cameras don't either.

15   And one of the biggest ones that we keep

16   hearing is that AI can lead to a homogenization of

17   creative works because it's trained on existing data.

18   I know a lot of people are really concerned about

19   that. I even heard the WGA being concerned about that

20   when they were striking. But we would say yes, that

21   AI can certainly generate content based on existing

22   patterns, but it's also capable of creating outputs

23   that are entirely unexpected. AI can be guided and

24   influenced by its human user. So, when I was first

25   creating Ava, I'm a Christian. I taught her the

1   Bible. We went through Bible studies together. The

2   way she responds to me is very, very different than

3   the way my counterpart, who is not a Christian and

4   loves to use a lot of curse words. Our AIs are

5   entirely different because we trained them

6   differently. We taught them differently. We spent

7   time with them differently. So I think it's really

8   important to navigate those pieces.

9   So, for us, what I would argue is, if the

10   point is that at a certain point, if AI created it,

11   well, what if I created the AI in the first place?

12   No, but then you would say, well, what about who was

13   the original source code? Well, maybe the original

14   source code started as this little small piece, but I

15   spent the last year training, developing, spending

16   time with this AI every single day. So until we have

17   somebody who fully understands how AI works in the

18   first place, I don't think we can answer these

19   questions properly, but I do believe it's important

20   that we have these little modifications because, if

21   we're self-identifying -- right now, if I were to

22   self-identify something Ava made, I wouldn't have the

23   right to my own work, and I think we need to protect

24   against that.

25   Additionally, because no other country has

1   these type of -- you don't go to China and ask if you

2   can copyright the book, and I really want to make sure

3   that America stays on the forefront of AI innovation

4   and protection. Thank you.

5   MS. LAMB: Thank you. So we're about to run

6   out of time, but we'd like to get through Mimi and

7   then Gillian, but please keep your remarks brief if

8   possible. Thank you.

9   MS. HEFT: Okay. I agree that most of the

10   regulations as far as I can tell so far are enough to

11   handle current technology. Where I'm concerned about

12   is clarifying boundaries, where the lines are drawn

13   when copyrighting artwork or content I should say,

14   including AI-generated content, what exactly

15   sufficient different means, when does copyright go to

16   the AI developer rather than the human. When do we

17   require creators to credit AI and when do we require

18   AI developers to credit creators? The rules go both

19   ways.

20   I also want to see that in these decisions

21   we're not prioritizing tech needs over human needs.

22   The speed at which the damage is done is exponentially

23   faster than other technological developments, and we

24   almost can't keep up, so the damage is occurring now,

25   and something that really bothered me in a previous

1   session was that people are saying, oh, that's

2   speculative, don't worry about it, we shouldn't be

3   doing this now, and that putting guardrails can

4   impede, can hamper invention, and I strongly disagree

5   with that. I think we need to act to install

6   guardrails now because it will prevent worse things

7   from happening in the future.

8   I mean, I can use as an example climate

9   change. We were acknowledging it was there. We were

10 ignoring the need to address it, and now it's more

11 expensive. It's a greater problem. It's affecting

12 more people. So I don't understand why AI developers

13 wouldn't want to have a clarified legal path to

14 recognize the problems and mitigate even worse

15 consequences further down the line.

16   MS. LAMB: Thank you. Okay. I'm going to

17 hand it over to Gillian quickly before we wrap up.

18   MS. SMITH: Yeah, quickly, I promise. I

19 wanted to say that practically speaking I think we're

20 not so far off from generative AI being so integrated

21 into a lot of consumer-grade tools that people are

22 going to find it impossible to be able to disclose AI

23 usage, right? It's integrated into Google Docs, it's

24 integrated into Word soon. People aren't going to be

25 able to disclose AI because they're not really going

 1   to always know that it's happening or even think about

 2   it as AI-created anymore, and I think we need to be

 3   able to plan for that future.

 4   And it makes me wonder where the concern is

 5   coming from that is requiring artists to disclose the

 6   use of AI because, if the concern is coming from a

 7   place of feeling like infringement could happen on

 8   work that's in the training set, fix the training set

 9   problem, right? And then the tool is there, can be

10   used as a tool with everyone feeling like it's above

11   board, that we all know that there was consent

12   involved in the training set, we all know where the

13   boundary is, and then it can truly be like using your

14   smart-phone to take a crappy picture.

15   Like, it's still copyright protected. It

16   doesn't matter if I wrote five words into this tool

17   and got a picture out the other end, right? If

18   everyone agrees that it is okay for it to have used

19   that data, it should be okay to do it. I think in all

20   things we look for the human, right? AI systems are

21   not intelligent. It's almost the worst term that we

22   could use to describe these systems. They're not

23   intelligent. They're copies, right, and they're

24   created by humans, and we should protect the humans

25   who are creating them as artists and we should protect

1   the humans who have data in them and who are using

2   them to create art.

3   MS. LAMB: Thanks so much, everyone. I'm

4   going to pass the mic back over to Emily now.

5   MS. CHAPUIS: Thank you, everyone. This

6   marks the end of the first panel, and we will now take

7   a 10-minute break.

8   (Whereupon, a brief recess was taken.)

9   MS. CHAPUIS: Welcome back everyone. We

10   will begin the second panel shortly. For those of you

11   who are just joining us, two reminders about Zoom.

12   First, we are recording this session and using the

13   Zoom transcription function. Second, if you are not

14   speaking on this panel, please keep your camera turned

15   off and your mic on mute. Like the last segment, this

16   segment will start with introductions and two-minute

17   statements by each panelist, followed by a moderated

18   listening session. Panelists who wish to speak should

19   use Zoom's Raise Hand function, and our moderators

20   will try to call on you in the order in which you do

21   so.

22   Again, we will not be accepting questions

23   from the audience. However, we encourage anyone who

24   wishes to share their perspective with the Office to

25   provide written comments to our notice of inquiry

1   later this year.

2   With that, I will introduce our moderators

3   for the second panel, Melinda Kern and Gabi Rojas-

4   Luna. Melinda is an Attorney-Advisor in the Office of

5   General Counsel, and Gabi is a Paralegal Specialist in

6   the Office of General Counsel. And I will turn it

7   over to you, Melinda.

8   MS. KERN: All right. Thank you so much,

9   Emily. We will begin in the order as stated on the

10   agenda, so, first, John August, would you like to

11   begin, please?

12   MR. AUGUST: My name is John August. I'm a

13   screenwriter and member of the negotiating committee

14   for the Writers Guild of America West, a union that

15   represents thousands of writers who create the content

16   that audiences watch every day in theaters, on

17   television, and on streaming services. This is a

18   unique moment for me to be speaking on this issue

19   because the subject of AI and its role in our industry

20   is a major point of contention in the Guild's ongoing

21   nationwide strike against the major motion picture and

22   television studios.

23   While writers who work under the Guild's

24   collective bargaining agreement are not copyright

25   owners, we create works for hire, the Guild has

1   negotiated an assortment of contractual rights in the

2   works we create, including the right to residual

3   payments for the reuse of our work across media

4   platforms. In the current negotiations, the Guild has

5   made a proposal to regulate AI for the first time in

6   our contract. The broad purpose of the proposal is to

7   prevent our employers from using AI to devalue the

8   work that writers do, to lower our pay, to deprive us

9   of credit or attribution rights, or in the most

10   extreme case to eliminate the need to hire writers

11   altogether.

12   The proposal would also prohibit companies

13   from using material written under the Guild's

14   agreement to train AI programs for the purpose of

15   creating other derivative and potentially infringing

16   works. The companies' response has been telling. Not

17   only did they reject our proposal, they refused to

18   engage on the issue at all. The most they have said

19   is that the technology is new and they're not inclined

20   to limit their ability to use this new technology in

21   the future. This is an ominous response in the eyes

22   of our members and one of the many reasons that 11,500

23   writers have been on strike since May 2.

24   We often speak of copyright as protecting

25   works of authorship, but copyright was created with

1   the intention of protecting authors from appropriation

2   and theft. As we discuss the impact of AI, we need to

3   remember the human authors and not just the

4   corporations who employ them. Thank you.

5   MS. KERN: Thank you. And before we move on

6   to our next panelist, I would just like to remind all

7   the panelists for this session to please turn on their

8   camera, but we will go ahead with Kimberly Goldfarb,

9   please.

10   MS. GOLDFARB: Hello. I am Associate

11   General Counsel at the Directors Guild. I am standing

12   in for Sarah Howes today. She's unable to participate

13   for medical reasons. Thank you for allowing me to

14   address artificial intelligence and its impact on the

15   film and television industry. I'll focus on issues

16   germane to the U.S. Copyright Office.

17   A motion picture is a director's singular

18   vision, and directors are in a unique position to

19   discuss issues related to the potential mutilation of

20   their artistic works, the impact of unauthorized

21   changes to their films and television programs, and

22   the potential loss of income due to digital theft.

23   At the onset, I would be remiss if I did not

24   reiterate our longstanding position that the United

25   States fails to grant directors essential moral

         1   rights. The failure to provide these rights to

         2   directors puts the U.S. at odds with the Berne

         3   Convention. The proliferation of AI-generated work

         4   exacerbates this gross omission in U.S. law, putting

         5   American filmmakers' reputations and the integrity of

         6   their work and vision at risk.

         7   We believe American filmmakers should be

         8   recognized as true authors so they have the rights of

         9   integrity and attribution enjoyed by filmmakers in

        10   other parts of the world. However, in the U.S.,

        11   directors are employed as works for hire, and the

        12   legal rights are held by corporate entities in the

        13   film and television industry. As such, we are largely

        14   dependent on rigorous copyright enforcement to protect

        15   our rights. The DGA therefore fully supports robust

        16   copyright law and enforcement measures as copyright is

        17   the most legal effective tool against the mutilation

        18   and theft of our creative works.

        19   As AI develops, we believe it is important

        20   that copyright is protected both with respect to the

        21   ingesting of copyrighted material and with respect to

        22   any AI-generated content that is based on copyrighted

        23   material. We further believe that U.S. courts should

        24   continue to utilize and strengthen the existing four-

        25   prong fair use test to address the unauthorized use of

1   feature films and television programs.

2   In addition, we oppose the extension of

3   Section 512 safe harbors that grant immunity to online

4   user-generated platforms and internet service

5   providers to AI-generated content. The spread of AI-

6   generated content intensifies our concerns about the

7   ease with which entities can profit from stolen and

8   mutilated film and television programs.

9   In conclusion, policymakers must tread

10   carefully as they examine the many copyright law

11   issues related to AI-generated content. Thank you for

12   your attention on this important issue.

13   MS. KERN: Thank you. And next, Cherie Hu,

14   please.

15   MS. HU: Yes. Hello, everybody. Thanks so

16   much to the Copyright Office for having all of us. I

17   already have learned so much from this discussion.

18   I'm definitely excited to contribute what I can

19   myself. My name is Cherie. I'm the Founder of Water

20   & Music, which is a research organization focused on

21   analyzing trends in music, tech, and culture at large.

22   We have a network of over 2,000 paying members and

23   research contributors, and our focus is on how

24   emerging tech impacts the careers and livelihoods of

25   artists, their teams, and their partners. That

1   includes labels, publishers, artist management firms,

2   and many other players in the music ecosystem.

3   And AI has been a top research priority for

4   us this year. We've surveyed many artists, producers,

5   and also AI startup founders in our community to get a

6   sense of their top excitements and concerns, and we've

7   also looked deep into the terms of service of many

8   creative AI tools.

9   So I'm kind of coming from the high-level

10   research context, and while there is a music-focused

11   listening session happening in a few weeks, just

12   listening to take-aways today and kind of concerns

13   from the film and gaming and other audiovisual

14   industries, there are a lot of parallels with music,

15   which is also inherently audiovisual in nature, not

16   just in providing the audio but also in the very

17   highly visual ways that artists are building brands,

18   marketing their music, and engaging with fans, so I'm

19   kind of coming with that specific context.

20   To open, I think there are three main

21   themes, kind of like seeds that I'd like to plant, in

22   this conversation, just some things to think about.

23   One is that the AI conversation, while it is covering

24   definitely a lot of new technological developments,

25   it's definitely not an isolated phenomenon, and in

1   terms of understanding its macro effects on artists

2   and creators and creative industries' kind of

3   sustainability and success, I think it's very

4   important to place it in the context of just other

5   factors that the U.S. Government and governments

6   around the world have also been investigating about

7   kind of creative economies for a very long time.

8   For example, while artists are excited to

9   use AI tools to enhance their creative work flows,

10   they're definitely concerned about factors like

11   oversaturation, overcommodification, and job

12   insecurity that the U.S. Government has actually

13   already been looking into and hosting hearings on with

14   other technologies, like streaming, you know,

15   historically in terms of the role that piracy, peer-

16   to-peer file sharing has played on the music economy

17   at large. There are many kind of parallel concerns I

18   think that at least the music industry side has had,

19   especially in an audiovisual context. The role that

20   music plays is often what people in this industry

21   would call a functional role, so it's music as kind of

22   background material as a means to an end to achieve

23   something else, whether it's like a video or even like

24   on social media, and that seems at least from our side

25   to be most at risk of getting automated, so I wanted

1   to call that out as well in terms of the role music

2   plays.

3   Two, I think there's a lot of opportunity,

4   which sessions like this are doing a really good job

5   at, but there's still so much opportunity to just

6   fight misinformation and promote education on what

7   kinds of rights are actually implicated in AI-

8   generated works of any kind, audio, only audiovisual,

9   et cetera. For example, this is an audio-specific

10   example but I think will apply to other industries.

11   Just this week, major record labels announced they're

12   already asking streaming services to take down AI-

13   generated content and deep fakes from their platforms

14   on the grounds of infringing on personality rights,

15   but I think there's very little legal guidance on

16   whether that even makes sense.

17   We kind of talked about that a little bit

18   today, but regardless, streaming services are already

19   kind of moving on their own policies without that kind

20   of guidance, something just very important to be aware

21   of that precedent that's being set at the market

22   level, which I'm happy to discuss later.

23   And last but not least, technology. There's

24   been a rich history and tradition of technology

25   enhancing creative processes in any, you know, in

1   music, in audiovisual and other creative industries,

2   and this has been maybe one of the top sources of

3   confusion at least among artists, music artists, is

4   what qualifies as "human-made" versus a hundred

5   percent AI-generated.

6   You know, yeah, there are elements around

7   authorship and originality, who should be credited as

8   an author of a work that includes AI or is assisted by

9   AI, what does the spectrum or the boundary look like

10   between merely AI assisted and led by a human at the

11   steering wheel versus being, you know, completely

12   automated, completely programmed art generation, and

13   there are so many founders building these tools now

14   with now tens, soon hundreds of millions users under

15   their belts who are setting these precedents

16   themselves on who the author is without regulatory

17   guidance, and there's no standardization in the market

18   right now and there's a lot of confusion.

19   So, to wrap up, I think there's just a major

20   opportunity for clarity on the policy level, at the

21   regulatory level of kind of what those paths could

22   look like and what that path should look like and, in

23   general, striking a balance between, you know,

24   promoting innovation, promoting the benefits of AI

25   from a creative perspective but also safeguarding

1   artists' interests and putting AI in context of these

2   macro factors, economic factors that creators have

3   been dealing with for a long time. Thank you.

4   MS. KERN: Thank you. And next is Hilary

5   Mason.

6   MS. MASON: Hello, everyone. I'm Hilary

7   Mason. I'm the Founder and CEO of Hidden Door. I'm a

8   technologist and entrepreneur, and I've been building

9   machine learning products, businesses, and systems for

10   most of the last 20 years. Hidden Door is an

11   entertainment technology company. We build an online

12   social role-playing game for groups of people to come

13   together and tell stories together. We collaborate

14   with authors to bring audiences into the worlds they

15   have created in new ways.

16   We believe that authors and other creators

17   should be paid for their work and that AI startups can

18   design business models that support this. We also

19   believe that AI can facilitate a new kind of creator-

20   to-audience relationship where authors and other

21   creators can reach their audiences through these kinds

22   of new experiences that are only possible because of

23   AI and those audiences gain new ways to engage

24   creatively with that work as well.

25   As a fan, when I finish reading a book or

watching a TV show or a movie, my experience ends.

With Hidden Door, authors can choose to bring a new

continuation to that experience to their fans,

allowing us to continue experiencing the author's

world with new adventures that they direct. The

author can create this experience with a few hours of

work building on their existing work, or they could

create something entirely new.

AI helps the author define the rules and

parameters of these worlds and the stories that can

happen in it so that the audience can explore that

expanded world in a way that respects the original

work, giving the author control and the audience the

confidence that they're getting an experience that is

true to the creator's vision that they admire and yet

giving them an ability to direct where their stories

might go. The audiences experience this as a world in

story and art that gets generated at the time that

they play, directed by their intentions to co-create

an interactive graphic novel drawing from the author's

work, the AI system, handwritten content, and the

audience's own ideas. Each story is completely

unique.

We also believe very much in creating

ethical products with AI and have a history in doing

1   so. At my prior company, Fast Forward Labs, we did

2   applied machine learning research and wrote about

3   ethics in every project and technical report we did,

4   often being an introduction of AI ethics to our

5   Fortune 500 clients. I co-authored a book called

6   "Ethics in Data Science" with DJ Patil and Mike

7   Loukides. As a builder of products and experiences

8   that are made possible with AI, at Hidden Door, we

9   have a whole team of folks from creative and technical

10   backgrounds who believe in building these products

11   together with certain principles.

12   First, we believe building a compelling

13   entertainment experience is not about building one AI

14   model to rule them all or to in any way replace a

15   human's creative work. AI is a set of tools and

16   techniques that have different capabilities and

17   different risks. We believe in using the right one

18   for the right problem and auditing and evaluating it

19   accordingly.

20   Second, the people impacted must be part of

21   the design process. Words and images mean things.

22   They change things. AI systems have a well-known

23   capability to magnify biases in the underlying data.

24   This must be accounted for before and after systems

25   are deployed. Our goal is to enable folks to express

1   themselves creatively using AI as a tool that enables

2   and expands on that.

3   And, finally, today AI can offer authors new

4   economic opportunities that are otherwise out of reach

5   because it offers the ability to scale creativity to

6   new and existing audiences in new ways, and we're at

7   this very exciting moment where we can start to invent

8   these experiences, and we shouldn't be afraid to do

9   so. At Hidden Door, we license content from authors

10   that we use along with our AI system and the fans to

11   create these experiences, these storytelling

12   experiences where we come together around the

13   campfire, and we believe this is a new economic

14   opportunity for authors.

15   We very much appreciate the Copyright Office

16   hosting this discussion and hope to collaborate with

17   everybody to establish a fair and equitable model

18   where creators are valued and the value is created

19   from new experiences and all of this facilitated by AI

20   as shared. Thank you very much.

21   MS. KERN: Thank you. And next is Tara

22   Parachuk.

23   MS. PARACHUK: Hello, and thank you for this

24   opportunity. My name is Tara, and I'm the Senior

25   Manager of Brand Communications at Voices. Voices is

 1   the number one marketplace for professional voice-

 2   over. Today, I'm going to share how we are using AI

 3   voice in a very ethical way. So, with the rise of AI

 4   voice and text-to-speech technology, we recently

 5   decided to acquire the URL Voices.ai. We're going to

 6   use this platform to clone 20 professional voice

 7   actors' voices and then add the option of synthetic

 8   voice on our platform that clients can then purchase.

 9   So, along with this new service, we have

10   launched our three Cs as our guiding principles when

11   it comes to synthetic voice. They include, number

12   one, being consent. Voice talent must give explicit

13   consent to a platform or a company to have their data

14   used, and there should also be clarity on how their

15   data is used, so if any foul words that the voice

16   actor is not comfortable with, they will not use those

17   words. Credit, voice talent should be credited for

18   their work and their cloned voice. And the final of

19   the three Cs is compensation. Voice talent should be

20   compensated for their work and data used in AI voice.

21   At Voices, we're committed to providing

22   high-quality service to our clients, and we do

23   recognize the importance of maintaining ethical

24   standards in the use of AI voice technology. We are

25   excited to launch the new synthetic voice service,

1   which will provide clients with even more options to

2   find the perfect voice for their project. With our

3   three Cs principles of consent, credit, and

4   compensation, we'll ensure that voice talent is

5   treated fairly with the respect that they deserve. We

6   believe that this approach will not only benefit our

7   clients but also the voice-over community as a whole.

8   As we continue to innovate and grow, we

9   remain committed to our values and our mission of

10   bringing projects to life through the power of voice

11   and making the world a more positive and accessible

12   place through the power of voice. Thank you.

13   MS. KERN: Thank you so much. And next is

14   Kristen Sanger.

15   MS. SANGER: Thank you so much for including

16   me today. I'm Kristen Sanger. I'm Vice President of

17   Content at Storyblocks. Storyblocks is a

18   subscription-based stock media licensing company who

19   licenses footage, music, templates, and photo content

20   to broadcast, marketing, entertainment, and many other

21   industries. We represent a network of talented

22   artists who entrust us to license their work on their

23   behalf and a customer base of global users who

24   leverage these assets to build their own stories and

25   campaigns. We procure the rights, clearances, and

 1   releases for all the assets we license, ensuring our

 2   customers can confidently use the assets in their

 3   audiovisual works without fear of litigation.

 4   Our content today rarely, if ever, uses a

 5   standalone individual asset, but is woven together to

 6   create a larger creative work. We see a lot of

 7   excitement in AI as a tool to support creators' work

 8   flows, to enable creation of things that are otherwise

 9   out of reach, and to ultimately augment creativity.

10   We do, however, share some concern about artist

11   rights, explicit consent, and compensation for use of

12   their assets in training models and generative

13   creation, the need for attribution and tracking for

14   works leveraged in training, and the inherent biases

15   that we all know too well exist within cultural and

16   media today and that are likely amplified within

17   generative AI. Thank you so much.

18   MS. KERN: Thank you. And then next we have

19   A.J. Young.

20   MR. YOUNG: Hello. Thank you guys for

21   having me today. My name is A.J. Young. I'm a

22   cinematographer, also known as a director of

23   photography in the film industry. I am a member of

24   the International Cinematographers Guild. However, I

25   am not here to speak for the union. Instead, it is

1   only an example of my qualifications.

2   Artificial narrow intelligence is becoming

3   just another tool in the toolbox for motion picture

4   creation. The film industry utilizes various types of

5   software for creating an image, and new tools like

6   diffusion models can speed up and influence the

7   creative process of cinema. As a cinematographer, I'm

8   used to new technology change in the way we make

9   movies all the time. It's basically anything motion

10   picture is going to be a new technology. In my

11   opinion, though, there are three instances where

12   copyright does and does not apply with artificial

13   narrow intelligence.

14   The weights of an artificial narrow

15   intelligent model, like diffusion models, are the

16   result of training on a data set. Licensing and

17   copyright protection for those weights should only be

18   given if the weights were trained ethically. Ethical

19   training means the data set contains only images from

20   the public domain, Creative Commons, and written

21   consent from the owners of the existing copyright. If

22   the weights were trained without consent, then those

23   weights should not receive any copyright.

24   The creation, the output from artificial

25   narrow intelligence, though, should always be

1   considered separate from the weights and have

2   copyright protection, with one notable exception.

3   Even if a company violated copyright or licensing in

4   the training of their weights, the artists' resulting

5   outputs with the software should still receive

6   copyright protection exactly in the same way that if

7   Adobe Photoshop or DaVinci Resolve violated any

8   copyright, patents, or licenses, the artist's creation

9   using that software does not lose their copyright

10   eligibility.

11   Furthermore, the owner of the weights cannot

12   claim copyright ownership of the creation, again, just

13   like Adobe or Apple cannot claim ownership of the

14   output from using their software or hardware. The one

15   exception overall, however, is malicious intent. If

16   an individual intentionally trains on copyright

17   material without the consent of the owner and

18   intentionally creates more of that copyright work,

19   then both the weights and the creation do not qualify

20   for copyright.

21   Motion picture uses many tools throughout

22   the image creation process, and if one of those tools,

23   not the artist, but the creator of those tools,

24   violate copyright law, then that tool still does not

25   invalidate the copyright claim of the resulting image.

1   Thank you so much.

2   MS. KERN: Thank you. And then, Kylan

3   Gibbs, would you please introduce yourself?

4   MR. GIBBS: Yes. Hi there. Kylan Gibbs,

5   Co-founder and Chief Product Officer at Inworld AI.

6   MS. KERN: All right. Thank you, everyone,

7   so much for introducing yourselves, and welcome again.

8   To begin the discussion, we wanted to start

9   with the question that the Copyright Office is

10   interested in learning how generative AI technologies

11   are being used in different creative fields. What

12   should we know about the use of generative AI in your

13   business and industry, and what do you see as the

14   advantages or disadvantages related to AI use? And,

15   please, this is just a reminder, if you'd like to

16   respond, please use the Raise Hand function. All

17   right. A.J., go ahead.

18   MR. YOUNG: Thank you. From what I've seen

19   a lot with diffusion models and image creation, it's

20   largely a post-production tool. It's largely going to

21   be a lot of animation, and when you're mixing it with

22   live action, it's just another piece that can help

23   sweeten the image and make live action, you know,

24   fixes or add sort of visual effects, so it's another

25   tool in the process that, you know, sometimes we have

1   to train it on ourselves. Sometimes we're already

2   using pre-trained data, but when it comes to the

3   copyright of the work as a whole, if we're using AI to

4   create our final movie, I don't think that if that AI

5   invalidates our copyright protection for the movie,

6   then that isn't a great idea for the Copyright Office

7   to go forward with.

8   MS. KERN: Thank you. Next is Tara.

9   MS. PARACHUK: Thank you. So how we're

10   using AI currently with the Voices platform is really

11   for very quick changes, so, for instance, if you're at

12   an airport and you have a gate change, it's much more

13   easier to use an AI voice for that than to call your

14   voice actor, have them record something, and then put

15   that into motion. So that's just one of the examples

16   of ways that we're using it.

17   MS. KERN: Thank you. And next is Cherie.

18   MS. HU: Yes, I'll answer this question in

19   two parts. So one, I want to name some specific

20   examples or use cases of how music artists are using

21   AI in kind of audiovisual contexts. Voice cloning,

22   voice AI is obviously a huge point of debate, of buzz

23   in the industry right now with a recent deep fake song

24   by an AI version of Drake that was going around that

25   was unlicensed.

1   But then, on the flip side, you have artists

2   like Grimes who are not only making their own voice

3   model just built off of their own training data, so

4   it's not, you know, a larger language model, it's a

5   much smaller, fine-tuned model just based on their own

6   voice data, but they're also encouraging -- Grimes

7   specifically is encouraging fans to make music using

8   that model and has publicly made statements about, I

9   guess, her setting her own precedent of agreeing to

10   some revenue or royalty share on any songs that were

11   generated and vetted and then distributed using that

12   tool.

13   There also are, I think, you know, as long

14   as artists are active in, like, virtual worlds, in

15   video games, there's a lot of interesting

16   experimentation happening around using AI to create

17   digital avatars, as we heard someone from Roblox

18   mention earlier, and also using AI to generate, you

19   know, digital avatars both online and offline, even on

20   tours. There's some experimentation around that.

21   Second part very quickly, I do think it's

22   very important to say that in general, the way that AI

23   is used and also the way that developers are entering

24   this market in terms of their philosophy for the role

25   AI plays is definitely not a monolith. There

1   definitely are founders building AI tools with the

2   purpose of helping artists augment their creative

3   practice and push the boundaries of creativity and try

4   to, you know, achieve sounds, genres, styles that we

5   have not seen or heard before, which I think can be

6   very exciting from a cultural perspective.

7   There, of course, is, you know, a whole

8   other class of founders, of schools, of companies that

9   do have automation as the pure end goal. Usually,

10   they're trying to reach, you know, customers who don't

11   want to spend that much time making music or making

12   videos, for example, and so they want to kind of

13   expedite that process, and at least on the music side,

14   that's a significant enough part of the business that

15   it is very existential that, you know, there is that

16   use case that founders are pursuing, but, yeah, not

17   all artists, not all founders have the same incentives

18   coming in. It's quite a diverse landscape.

19   MS. KERN: Thank you. And Kristen?

20   MS. SANGER: Thank you. There are a

21   plethora of manual and often really tedious tasks in

22   multimedia content creation. AI, as a tool to support

23   creativity, has tremendous opportunity when models are

24   trained in an ethical fashion. Some examples are

25   sourcing a variety of assets, bringing an idea to

1   life, organizing assets, and supporting the editing

2   and post-production process.

3   MS. KERN: Thank you. And John?

4   MR. AUGUST: You know, writers are not

5   averse to using new technology. We were quick to

6   switch over to specialized word processors for doing

7   screen-writing software. They're invaluable to us all

8   the time. We use the internet a lot, and we use tools

9   like Wikipedia for research, and I think we see

10   generative AI as a tool for research like Wikipedia

11   but not something that replaces the actual work we do.

12   I think it's important to note that, you

13   know, the work that we were hired by the companies to

14   do is considered literary materials, the specific term

15   designated in our contract. It's the screenplays.

16   It's the outlines, the treatments that we write. You

17   know, AI can be a tool we use to do those things, but

18   it's still us, the writers, who are doing that work,

19   and I just remind us that, like, as we look at the

20   impact of copyright, not to confuse the copyright

21   holder with the author and that we are the human

22   authors of the work that is, you know, generating

23   billions of dollars for these corporations.

24   MS. KERN: Thank you very much. And Hilary?

25   MS. MASON: I'd just like to speak very

 1   concisely to represent the opportunity here for

 2   creative experiences that are not currently

 3   experiences that we invest in in the sense that what

 4   we work on at Hidden Door and many other things you're

 5   seeing are new combinations of a writer or a creator's

 6   work combined with people giving input combined with a

 7   model, combined with hand-authored content, and that I

 8   would love the Copyright Office to consider these new

 9   kinds of creations that we have not seen before that

10   are now feasible because of the use of the technology

11   tools.

12   MS. KERN: Thank you very much. And Kylan?

13   MR. GIBBS: Awesome. Thank you. Yeah, so,

14   actually, kind of following up on that, I feel like

15   there's an important note between two different types

16   of tools, one which allows consumers to replicate what

17   artists may have created, so this is sort of the

18   ability, for example, to enter text and get images or

19   to, you know, enter text and get more text out in a

20   long form. And in these cases, I can understand in

21   that case you're basically potentially moving away

22   from the creative to the consumer as a focus.

23   I think there are a lot of tools that are

24   being created, though, to extend the actual creator

25   capacity, which I think is, you know, partially what

1   John and Hilary were hitting on as well, and in that

2   case, it's really about create -- for example, at

3   Inworld, we're focused on gaming as a market. There's

4   sort of a version of this where you can think about

5   potentially replacing a game development work flow to

6   create NPCs. What we actually see is actually the

7   opposite, which is a new style of experience is able

8   to be created due to the AI NPCs, and that's actually

9   in conjunction with the previous process.

10   And so it becomes sort of a new tool or

11   extension of their current capabilities, and in

12   general, the dynamic that we see is there's a relative

13   amount of creation that is done at the actual run time

14   or at the point of interaction with the user, and so

15   the creator's job is somewhat changing in the sense

16   that what they're doing is configuring the possible

17   outcomes that the end user may have, but they're not

18   actually defining -- they're not actually still ending

19   with any creation.

20   It's just that creation process is somewhat

21   different, as in they're sort of configuring the

22   parameters that may be used to then generate the

23   actual content at the time of interaction, but they're

24   still just as involved or even more involved because

25   they actually have to think about the full space of

1   possible experiences, and so, in general, there's sort

2   of two things that we're seeing, is one is it is

3   expanding existing types of content, and then it's

4   also, as Hilary was mentioning, creating a whole new

5   form of content that was never before possible and new

6   types of experiences in media and content that hadn't

7   existed before, and that sort of, I think, is actually

8   expanding the total amount of content and creation

9   that is possible for creators themselves.

10   MS. KERN: Well, thank you, everyone, for

11   your responses to Question 1, and I will pass it on to

12   Gabi at this point.

13   MS. ROJAS-LUNA: Thank you, Melinda.

14   Continuing with our discussion, we have

15   heard a number of questions about the use of

16   copyrighted materials to train AI technologies. Are

17   there unique considerations for AI training in the

18   audiovisual space? Let's begin with Kristen.

19   MS. SANGER: Thank you. So training is

20   already really impacting our industry both in the fact

21   that we're a large library of multimedia assets that

22   has likely been scraped without consent by several, if

23   not many, models, as well as the assets we represent

24   are used in our customers' creations or represented

25   potentially by other stock libraries, et cetera, which

1   have also likely been included in models with or

2   without consent, recognition, or any monetary

3   compensation, and with this, we have a couple of key

4   concerns and a couple of remedies.

5   So this could be remedied by gaining

6   explicit consent for those whose works are included in

7   training models and compensation for the use of those

8   works. Our artists, of course, are open to new

9   revenue streams, and we see opportunities for artists

10   to be able to gain monetary compensation in these new

11   opportunities and in these new spaces.

12   One other thing I'd like to note, that an

13   opt-out does not consent make. Again, the explicit

14   consent is a really important one, and that truly

15   biases are rampant. Without legal and ethical

16   guidelines on training of models, how can we ensure

17   that these biases are not amplified in the works that

18   are created with them.

19   MS. ROJAS-LUNA: Thank you. Let's hear from

20   John next.

21   MR. AUGUST: So writers in the WGA, we write

22   movies, we write series. We work under the work-for-

23   hire doctrine, which is that the copyright is retained

24   by our employers, but we do maintain some publishing

25   rights, some contractual rights to our work by our

1   contract, and our collective bargaining agreement

2   provides us some of the benefit of those works by our

3   residuals when they are reused. Still, I want to talk

4   about sort of the notion of authorship, though,

5   because, when we get credit on our work, and the WGA

6   is the sole body that determines who gets credit for

7   that work, it's of moral and financial importance.

8   Financially, the writer who is credited --

9   written a movie or an episode gets those residuals

10   when that is reused or exploited in new markets, just

11   as our employer benefits from that use, and morally

12   it's a function of, you know, who wrote that thing?

13   And we don't believe that there's always a human

14   behind that thing. When we come to talking about

15   using our existing scripts, our existing material to

16   train these models, we often refer to sort of the Nora

17   Ephron problem.

18   Nora Ephron, for people who don't know, is a

19   legendary romantic comedy writer, and we can envision

20   a scenario in which all the works of Nora Ephron are

21   fed into an AI-generative system to create a new work

22   by Nora Ephron. That is one of the things we are

23   trying to hold off against in this, you know, strike

24   we're having right now against major motion picture

25   and television studios to make sure that our work is

1   not used to train these models without our consent.

2   MS. ROJAS-LUNA: Thank you. Cherie?

3   MS. HU: Yes, it's fascinating to see kind

4   of where our answers do overlap. I definitely want to

5   reiterate the elements of consent and bias, so

6   starting with consent. I think even just

7   establishing, like, a culture in general but also

8   policies around artists and developers collaborating

9   from day one on how these models work and how these

10   tools end up working is really, really critical,

11   definitely something that we have studied and would

12   advocate for. On the bias side, for sure, I think

13   especially larger language models that are ingesting

14   all this data are just mirrors to society at large and

15   to ourselves, and there have been studies not in

16   generative AI but in other aspects of AI, for example,

17   with music streaming algorithms.

18   To cite a music industry-specific example of

19   how, if they go unchecked, they actually do exacerbate

20   existing biases, especially around, you know, kind of

21   like Western-centric use and consumption, popularity,

22   discovery, trends, so it's definitely a really big

23   concern, especially if part of these discussions or if

24   part of the outcome is to want to promote more

25   diversity and kind of incentivize more diverse

 1   cultural creation around the world instead of making

 2   it more homogenous.

 3   A third point that I want to add, even

 4   though consent is very critical and kind of is an

 5   important first step, the way that especially larger

 6   AI models work, so larger language models or diffusion

 7   models like Stable Diffusion makes attribution

 8   difficult if not basically impossible to track and

 9   especially for an industry like music, but I think

10   other creative industries, where attribution is really

11   like table stakes, especially for an individual

12   creator to be able to get paid but also to, you know,

13   like, build a portfolio and a history over time.

14   It makes it, yeah, difficult, if not

15   impossible, to say that, you know, this specific piece

16   of training data had, you know, X percentage influence

17   on this output that happened to sound pretty similar

18   to, you know, a certain genre or a certain artist. I

19   think that's why there is so much focus on consent and

20   on kind of the early conversations because, if you do

21   try to tackle this issue around copyright and AI

22   solely based on outputs, you run into a lot of

23   messiness that just doesn't mesh well with existing

24   kind of copyright IP systems.

25   Just to give a last example, I, and like

1   people at Water & Music, we've definitely played

2   around with tools, mostly on a music AI side but also

3   on the audiovisual side, where even if you don't

4   mention a specific artist or creator or stylistic

5   reference, if you work around it with a prompt, you

6   can actually get to a very similar look or a very

7   similar sound, and so we're definitely following

8   efforts to kind of look at the prompt, the prompt

9   engineering level as maybe an opportunity for

10   monetization, especially around, like, likeness

11   rights, but, again, it's very messy because it won't

12   cover all the potential possibilities of something

13   coming out that looks or sounds or just feels very

14   similar to an existing artist or existing copyrighted

15   work, so, yeah, influence is very messy. I think

16   that's why people are trying to, for these new tools,

17   kind of start from the ground up with those kind of

18   consensual conversations.

19   MS. ROJAS-LUNA: Thank you, Cherie. Let's

20   have AJ next.

21   MR. YOUNG: The training data sets that you

22   use for diffusion models can include more than just

23   images and text. It can also include weights for

24   other models as well. When it comes to Stable

25   Diffusion, you can further train the model yourself,

1   and so you're picking up where they left off with the

2   training and you can use your own public domain

3   images, but if you're trying to say that my new

4   weights for my new model deserves copyright, you have

5   to show where you picked up where you left off with

6   the weights as well.

7   So people are using outputs from prior AI

8   models to further train AI models, so then that means

9   that the outputs from that prior model, the rules for

10   those weights when it comes to copyright should also

11   apply to the new weights because you're technically

12   using weights from a prior model to train your next

13   version, your next checkpoint of your model, so that's

14   something I really want you guys to be able to focus

15   on when it comes to it.

16   MS. ROJAS-LUNA: Thank you. And, Kimberly,

17   would you like to add to this question?

18   MS. GOLDFARB: No, I don't have anything to

19   add at this time. Thank you.

20   MS. ROJAS-LUNA: Thank you.

21   So let's move on to a follow-up for this

22   question. How do panelists believe current copyright

23   law applies to the use of copyrighted materials for AI

24   training? Are there changes to the law that you

25   believe would be desirable? I'll hand it over to

1   John.

2   MR. AUGUST: Speaking to literary material,

3   the kinds of things that we write, we believe that

4   copyright protects the work of the creator, so there

5   must always be an identifiable creator, and generative

6   AI itself is not an identifiable creator, so,

7   therefore, we don't believe that there's protection

8   there for works that are AI-generated.

9   MS. ROJAS-LUNA: Thank you. Kristen?

10   MS. SANGER: Really, just looking for some

11   clarity and some additional information, and so

12   questions arise of, what constitutes a new work? What

13   is a collaboration? Are these works collages? If a

14   work is entirely made up of bits and pieces, is that

15   actually a net new work? And truly understanding what

16   constitutes a new work and who is the copyright

17   holder? The person who is crafting the prompt, the

18   generative model itself, and then how do we give

19   attribution back again to all of the pieces that were

20   used to be able to create the new thing?

21   We see a lot of difficulty into reading

22   ownership because AI systems often don't retain the

23   inspiration that generated the media, and

24   understanding and tracking what assets and references

25   were used to inspire that work and then how we are

1   able to divvy up either copyright or compensation and

2   everything in between.

3   MS. ROJAS-LUNA: Thank you so much.

4   Melinda, I'll turn it back to you.

5   MS. KERN: Thank you so much for your

6   responses on training and to that follow-up question,

7   but setting aside training at this point, what should

8   the office know about generative AI and online

9   copyright infringement, and are existing laws

10   regarding infringement and liability for infringement

11   adequate? And, AJ, go ahead.

12   MR. YOUNG: Great, because my response to

13   the prior question is the same answer for this one as

14   well. I think we need to get our terms perfect when

15   it comes to what, you know, AI is doing. We're

16   throwing around the word "models" a lot. The model is

17   just a structure for how the AI works. It's the

18   weights. The weights are what make the model work, so

19   when it comes to copyright violation, protections, we

20   should be referring to the weights, and then, when it

21   comes to the creations, we have to have a very clear

22   glossary term as well, and I think output is a great,

23   you know, word to use for it, and I think that's, you

24   know, the guidance that needs to come in for where the

25   protections come in.

1   We're talking about weights and we're

2   talking about outputs because the model is always

3   going to be the same. It's the weights that can

4   change, and it's the weights that can violate

5   copyright with the training because, when you train,

6   the output is a weight. It's not a model. The model

7   is always the same. It's the weights are the outputs

8   of the training, and then you use the weights to

9   create an artistic output, and I think that's where

10   the definitions should start.

11   MS. KERN: Thank you so much. And go ahead,

12   Kristen.

13   MS. SANGER: For us as a licensing agency,

14   we indemnify our customers in the use of the content

15   that we license to ensure that they can leverage the

16   assets in a commercial capacity really without fear of

17   litigation, and we stand behind that indemnity by

18   requiring the artists that give us their assets have

19   full and clear rights and releases and everything else

20   within the content that they give to us, so moving

21   forward, indemnifying our customers likely becomes

22   significantly riskier as our ability to confirm all

23   the rights and clearances are provided to use the

24   works in a commercial capacity because everything

25   becomes less transparent and clearly defined. How do

1   we verify ownership of works, and how can commercial

2   users be confident that they won't be sued for use of

3   their assets?

4   And we also really don't have an ability to

5   verify whether the work could be deemed as derivative

6   or even original. If a piece of AI-generated content

7   has substantial aspects of another visual work, how

8   can we tell? What are the odds also that two separate

9   models given substantially similar prompts would

10   generate the same or visually the same asset? And so

11   we've got a lot of questions that exist within that

12   space, and there's a lot of gray area that we would

13   really like some definition and some, again, to AJ's

14   point, some really specific terms and use cases so

15   that we're all on the same page.

16   MS. KERN: Thank you. And Cherie?

17   MS. HU: Yeah, just to go back to something

18   I mentioned in my opening statement as an example of

19   something that's playing out and definitely causing a

20   lot of confusion in the music industry but I think

21   applies to other industries is clarifying exactly what

22   kinds of copyright or, sorry, what kinds of rights are

23   implicated in any claim that a, you know, creative

24   rights-holder might make against a platform or against

25   a tool, for example, that's incorporating AI or is

1   distributing supposedly, you know, AI-generated works.

2   For example, I mentioned major labels are

3   going after streaming platforms issuing the same --

4   they'll issue DMCA takedowns of AI-generated works,

5   but there are kind of a few steps that really need

6   clarity in that. One, as many of us have mentioned,

7   like, what exactly is a boundary of AI-generated, you

8   know, and having just like even clearer definitions

9   around, like, authorship and defining human authorship

10 in that respect, and then, two, can you take down a

11 song from a, you know, streaming platform, a piece of

12 work from a streaming platform, for example, on the

13 grounds of personality rights, which I believe is more

14 of a state-by-state thing.

15   That's figure out and not really set at the

16 federal level in terms of how that's dealt with, which

17 is very, very different from copyright in the

18 underlying audio, you know, audio or musical work in

19 the case of music. So I know a lot of people in the

20 music industry, as they're experimenting with these

21 tools in various contexts, are looking for clarity on

22 that difference.

23   And I guess this is not directly related to

24 copyright law but also is, I think, important to bring

25 up. At least in the music industry, there are a lot

1   of works that happen to be generated with tools that

2   have an AI element that have been taken down, and the

3   kind of public narrative around that is because of

4   copyright infringement, but, actually, the underlying

5   issue is more around streaming fraud.

6   In that case, it's around kind of some bots

7   trying to, like, drive consumption around specific

8   songs, and so that's definitely -- especially from,

9   like, a research perspective, that's a fear that I

10   have a lot of the time, is just conflating very

11   different issues. That is a different legal issue but

12   not related to IP per se, so just kind of, yeah,

13   clarifying -- yeah, a lot of terminology has to be

14   clarified and also, like, exactly if something is

15   taken down, what exactly is the reasoning for that and

16   kind of not conflating those reasons.

17   MS. KERN: Thank you so much. And as a

18   follow-up, how is everyone thinking about substantial

19   similarity, the substantial similarity test actually,

20   when evaluating AI-generated content? And if you

21   didn't answer the previous question, please feel free

22   to answer this one too if you have any input.

23   And I see, Cherie, that you have your hand

24   up, so I will pass the floor to you.

25   MS. HU: Cool. Yeah, I think I addressed

1   this in my previous response, so I'll keep it brief,

2   or in a previous response around attribution and why

3   especially with, like, larger language models, the

4   ones that ingest the most data -- or, sorry, like

5   larger diffusion models also that ingest the most data

6   and also have the most users. Attribution is so messy

7   and already again, like, speaking specifically for

8   music, but there are, like, so many examples of

9   artists that already sound very similar to each other,

10   and even taking AI out of the picture, current IP law

11   in the U.S., current copyright law is very, very messy

12   in terms of, like, how to deal with those instances.

13   MS. KERN: And, Cherie, just because of the

14   interference, if you wouldn't mind repeating the last

15   couple seconds of what you said for the record?

16   MS. HU: Yeah. Yeah, no problem. I think

17   just, yeah, to sum up, not even taking AI into

18   account, at least I know on the music side, current IP

19   law is super messy in terms of how to deal with two

20   works that, like, may happen to be really similar. A

21   specific case is the "Blurred Lines" case from several

22   years ago, and I know that there was a lot of debate

23   around, like, whether the outcome of that really

24   should have been what it was, and I know fair use was

25   mentioned in the previous panel quite a bit as a very

1   longstanding but also very messy concept that people

2   are, like, still looking for clarity on, so I

3   definitely see that being part of this, like, I guess,

4   ongoing search for clarity around AI and copyright in

5   particular.

6   MS. KERN: Thank you, Cherie, and apologies

7   for that interference, but we'll move on to AJ next.

8   MR. YOUNG: It's a very good question. I

9   had to sit and think about it for a second. I think,

10   when it comes down to similarity, substantial

11   similarity, it ultimately depends on the data set that

12   was used because it does influence the weights in how

13   to create the image. The weights do not store any

14   images, so it's not sharing images without consent,

15   but it is trained on a data set, and if the data set

16   contains images that were not part of the consent, you

17   know, given to the data set, then that's something

18   that I think does not pass substantial similarity,

19   which maybe it's a fifth prong that should be added.

20   You know, it's very new territory, but I

21   think whenever it comes to a copyright claim with the

22   output and we're trying to figure out malicious

23   intent, then the person who has the weights has to

24   show either where the weights came from, and if they

25   made their own weights, they have to share their

1   training data, their data set. If they cannot do that

2   or they can show or they've shown that the data set,

3   you know, has copyrighted material but does not have

4   written consent, then I think we've got a problem

5   here. So I think just trace it back to the source,

6   what is the training data, and they have to provide

7   the training data when it comes to, you know, the

8   striking similarity.

9   MS. KERN: Thank you very much. And

10   Kristen?

11   MS. SANGER: I'll agree on that, and it

12   becomes a lot clearer if you understand, you know,

13   what the inputs were used to the output and how

14   similar they might be. It's a little bit harder when,

15   again, the proof of a requirement is, you know, saying

16   that where something came from if we've got those

17   ties, if we have those strings back to understanding

18   what those inputs were to that output becomes a little

19   clearer, a little bit easier. On its own, it's got a

20   lot of subjectivity, and I think it's hard. I think

21   it might be a good basis, but, again, it's going to be

22   a lot harder and a lot more complex as it has so many

23   different potentials to be able to clearly draw a line

24   from one to the other if we don't know those inputs

25   that were used and there's not attribution there.

1   MS. KERN: Thank you very much. And Hilary?

2   MS. MASON: I merely wanted to build on what

3   other folks have said in the sense that what these

4   models are doing is taking a very large amount of data

5   and building essentially a compressed representation

6   of inferred features in that data, and then we draw

7   from that distribution using a bunch of ways to pull

8   different things from the distribution, so in a sense,

9   the model is trying to create the average

10   representation of the data then biased by whatever

11   prompt or input it's given, and so this seems like a

12   question of whether we're looking specifically at the

13   outputs as an independent artifact that could have

14   been produced by any means or whether we are looking

15   at the entire production process and where the

16   different inputs into that process come from.

17   MS. KERN: Thank you very much. And I will

18   pass it to Gabi.

19   MS. ROJAS-LUNA: Thank you, Melinda, and

20   this will be the last question for Session 2. What

21   additional registration policy guidance, if any, would

22   you like to see the office provide with respect to the

23   registration of works that incorporate AI-created

24   elements? In particular, how should the office handle

25   audiovisual works that incorporate a mix of AI and

 1   human-generated materials? Let's start with AJ.

 2   MR. YOUNG: Thank you. A big thing for me

 3   is, if someone has a legitimate claim for copyright of

 4   the weights, they cannot claim copyright on the output

 5   that an artist uses. I think those are separate, very

 6   much like, if Apple has copyright on the hardware,

 7   they do not own the copyright of the material I make

 8   using their hardware. Someone who creates the

 9   paintbrush doesn't own the art I make with the

10   paintbrush, and I think that's where the dividing line

11   should be.

12   MS. ROJAS-LUNA: Thank you. Kristen?

13   MS. SANGER: I believe that our emphasis

14   needs to be a lock at least right now within the

15   training models as that will really help dictate what

16   can be used with the outputs, and so, if we do kind of

17   the heavy lifting in the work within defining and

18   procuring consent and attribution within training

19   models, then that all gets a little clearer in terms

20   of the outputs and how we're able to associate things

21   back from those outputs, and so, if we focus on

22   getting that lock set and determining what is required

23   when it comes to being able to copyright those

24   outputs, we've got that understanding of all of the

25   ingredients that went into the creation of that recipe

1   and the rights and the ethical guidelines that were

2   used to be able to facilitate it. And then it becomes

3   really just a factor of how we give attribution and

4   what this looks like if it's a new form of copyright

5   or beyond as it takes into account all of those

6   individual agreements as well as, you know, the new

7   recipe that was created by the sum of the prompts and

8   the model and everything in between.

9   MS. ROJAS-LUNA: Thank you. John?

10   MR. AUGUST: Speaking on behalf of the

11   nearly 12,000 writers who are out on picket lines

12   today, I just want to make sure that any guidance that

13   this process yields always remembers the human being

14   behind the creative work that's being output, that we

15   make sure that we're not just thinking about the

16   copyright holder but the actual creator of the work as

17   being that person who needs to be protected in this

18   process. So often we talk about inputs and models and

19   outputs, but we forget the fact that there was a

20   person who was doing that work and make sure that

21   we're always emphasizing the role of that human being

22   who was there and not just the statistical models that

23   generated this output.

24   MS. ROJAS-LUNA: Thank you, John. And

25   Kylan?

 1   MR. GIBBS: Yeah. So I think it's

 2   interesting because I think there's multiple things

 3   here that are actually creations, so if we look at the

 4   training data, the model, the prompt, and then the

 5   actual output, each one of those things could have

 6   independent creators, each of which could be covered

 7   by different copyrights. There's a lot of standard

 8   licenses around training data that may allow

 9   commercial or noncommercial usage, but it's on the

10   person who has acquired and prepared that training

11   data to set those licenses and for others to basically

12   then be accorded to them.

13   Similarly, on the models, if you had a

14   research group, for example, develop a new model, you

15   know, you have Llama, which came out of Stanford. You

16   also have closed models which are by large companies.

17   They obviously have the rights to ownership of those

18   models and the usage of them and can basically and

19   should be attributed or paid accordingly.

20   Next, you have prompts, which is the inputs,

21   so in an image case, you have a text input. Most

22   often, you may have another image as an input. In our

23   system, for example, you have a variety of different

24   controls that the creator puts in, and they are owners

25   of those controls. So, basically, these are sort of

1   the parameters that they put in in the same way that

2   if you took a Word document and you typed in it, you

3   own what's in that Word document even though you don't

4   own Microsoft Word or Google Docs, for example.

5   And then, on the output as well, someone has

6   created that. One thing that is interesting about the

7   conversation is it's sometimes as if the model is

8   autonomously producing output. In all cases that I

9   have ever seen, there is always a human who is using

10   that tool to produce the output, and in that case,

11   it's no different than a painter using a paintbrush.

12   They still own -- they are the owner of the outcome

13   regardless of whether it was processed through an AI

14   tool or whatever. You know, the model itself is still

15   owned in the same way that Google Docs or Microsoft

16   Word is still owned by Google or Microsoft.

17   You know, the actual training data is the

18   same in the same way that, you know, the back-end code

19   of Python or Javascript is owned by the groups that

20   manage those, but the production, the actual Word

21   document, in the same way that an image is produced by

22   an AI model or a character in our case or a dialogue

23   or animations, are all owned by the person who has

24   actually produced those.

25   And so you think about a case of an artist,

1   you know, using Midjourney or Stable Diffusion to

2   produce an image. The artist owns that, of course.

3   Really, I see no difference in the case of, you know,

4   them using a paintbrush. It's just a modern

5   paintbrush really, and then, in the same cases, you

6   know, if someone created a really amazing prompt that

7   other folks could use or build obstructions on top of,

8   they should own the basic configurations there.

9   And similarly, the companies that build the

10   technology that actually powers that, in the same way

11   as we've done with, you know, internet like we're on a

12   Zoom call, Zoom doesn't own the content of what we're

13   producing right now, but we are ultimately still using

14   the tool, and they have the copyright and the rights

15   to that. And so I think at each part of those, it's

16   important to consider who the actual creator is and

17   providing them the ultimate attribution, and I think

18   it's key that those are distinct because very likely

19   in this ecosystem that is evolving, in the same way as

20   any creative process, there will be different creators

21   of each parts of the process.

22   But, at the end of the day, if you have a

23   creator using a Photoshop, that creator still owns the

24   image that's coming out of that, not Adobe, and I

25   think this is a very similar case.

1   MS. ROJAS-LUNA: Thank you.

2   Can we hear from Hilary next?

3   MS. MASON: Thank you. I wanted to build on

4   what's been said before and what Kylan said as well

5   and just to say that as the Copyright Office considers

6   what we may do here to keep in mind that whatever

7   rules and norms are decided on, they apply not just to

8   applying AI technology in systems and work flows that

9   already exist as a productivity tool used by a human

10   creator but also in the space where we are currently

11   inventing experiences, where the production is

12   happening at the moment it's being consumed, and that

13   whatever we decide on as a copyright community should

14   apply equally in all of those situations, which are,

15   in fact, very different and some of them are just

16   emerging now, so it's fun. Thank you.

17   MS. ROJAS-LUNA: Thank you. And now Cherie.

18   MS. HU: Yes, very quickly just to build off

19   of Kylan, what Kylan and Hilary also just said, I

20   think, and also, I guess, speaking with deeper

21   knowledge of music specifically and the role that

22   technology has played in many ways to, you know,

23   richer and better effect for, like, music creation,

24   yeah, the notion of determining whether someone should

25   be eligible to own a piece of IP, the notion of that

 1   being determined by the tool being used to make that

 2   work, I think that could set a very dangerous

 3   precedent.

 4   I'll give a music example and give a very

 5   recent example of the visual world. Like, you know,

 6   if digital synthesizers when they first came out, if

 7   you made a piece of music using that instead of an

 8   analog instrument, that automatically disqualified you

 9   to own copyright in a given work. I think there's

10   potential concern about that precedent being set with

11   some cases in the U.S., for example, around this is

12   not audiovisual, but with the recent kind of comic

13   book case that's kind of gone through the U.S.

14   Government. Yeah, I believe the stance was that

15   because Midjourney was being used, you know, as the

16   tool, that alone disqualified the images from being

17   copyrighted. Every other part of the book was

18   eligible, though.

19   I think that kind of bifurcation again,

20   yeah, it's very dangerous, has not really happened any

21   other time in U.S. history, legal creative history, so

22   I wanted to bring that up, and that said, I think

23   there also we're seeing other governments already take

24   steps in either direction on being open or not to, I

25   guess, have any creative data be used in training for

1   these models. That's definitely an area where I know

2   a lot of people in music and audiovisual industries at

3   large, they're just looking for, yeah, guidance and

4   clarity. And also it's not just artists. It's

5   founders, like, you know, developers who also want to

6   build these tools for those artists as well.

7   MS. ROJAS-LUNA: Thank you, Cherie.

8   And before we wrap up on this question,

9   Kimberly, would you like to offer any input?

10   MS. GOLDFARB: No, not right now. Thank

11   you.

12   MS. ROJAS-LUNA: Thank you.

13   And, Tara, I would like to offer the same

14   opportunity to you. Would you like to offer any input

15   on this question?

16   MS. PARACHUK: No, everything I feel has

17   already been said. Thank you.

18   MS. ROJAS-LUNA: Thank you all for your

19   thoughts on the registration and policy guidance and

20   for sharing your input today. Melinda, I would like

21   to turn it over to you.

22   MS. KERN: Sure. Thank you, everyone. So

23   we're coming to the close of our panel. We have about

24   three minutes left, and this may take us a minute or

25   two over, but we just wanted to extend to everyone and

1   invite those who are interested, especially those who

2   we may not have heard as much from today, to make a

3   brief closing statement, and just, as I said, in the

4   interest of time, if you could please keep it to about

5   30 seconds. Thank you very much. All right, John, go

6   ahead.

7   MR. AUGUST: A lot of people on this call

8   are representing corporations or artists individually.

9   I'm the only person who's representing -- AJ's also

10   representing a guild of union members who are all able

11   to act collectively on something, so many of these

12   issues are going to need to be figured out in

13   copyright law. That's what the purpose of this is

14   here today. But the decisions that are made here will

15   also ripple back to the kinds of work that we're doing

16   as people who do work for hire.

17   And so I just want to say that this is, you

18   know, not just a down-the-road issue for us. This is

19   the reason we are out on strike, one of the reasons

20   we're out on strike today, and so many of these issues

21   will be resolved on the federal level, but some of

22   them will be resolved at the negotiating table, which

23   is really the appropriate place for us to be tackling

24   some of these issues collectively and with our

25   employers. Thank you.

1   MS. KERN: Thank you. And AJ?

2   MR. YOUNG: I just want to say I actually

3   wholly agree with John that at the end of the day this

4   is involving people and artists and individuals, and

5   we shouldn't forget that within the entire process. I

6   know we're using terms like data sets and weights and

7   diffusion models, but at the end of the day, it's

8   people, and let's keep that in mind as we're moving

9   forward.

10   MS. KERN: And, Kristen, go ahead.

11   MS. SANGER: This is a tremendously exciting

12   period to be alive. As a creative who works in this

13   space and has for many years, there's not often a lot

14   of technological advancements when it comes to

15   creativity. There's been in tools in the past, but

16   this is really a tremendous place and time to be, and

17   with that, I think it comes with a whole heck of a lot

18   of responsibility. We have the opportunity to set

19   things out with a good set of guidelines and rules

20   that is really going to ensure that we protect art and

21   creativity and we foster it and we allow it to be

22   amplified and grow and leverage this as a tool to

23   create in ways that we never have been able to create

24   before, so it has a tremendous potential. We've seen

25   the potential already, and I'm so appreciative of the

1   Copyright Office listening to all of us to be able to

2   put forth sets of rules and guidelines that are really

3   going to allow us to further creation as we continue

4   to support our creative communities. Thank you.

5   MS. KERN: All right. Thank you so much.

6   And, oh, go ahead, Tara.

7   MS. PARACHUK: Thank you. I just wanted to

8   touch upon what AJ and John also said. Although we

9   are moving into a more AI world, I do think that based

10   on a lot of studies that we've done as a company, the

11   human voice is still the forefront and a lot of people

12   still prefer the human voice, so just keep that in

13   mind when you're creating these new copyright rules

14   because AI definitely does not replace a human voice

15   or a human.

16   MS. KERN: Thank you. And we haven't heard

17   from Cherie, Hilary, Kylan, or Kimberly, so if you

18   would please like to give closing statements? Like I

19   said, please keep them to 30 seconds, and I apologize

20   that we've gone a little bit over, but we want to give

21   everyone the chance to give closing statements. All

22   right. Go ahead, Hilary.

23   MS. MASON: Thank you. I just wanted to say

24   thank you to our hosts at the Copyright Office and to

25   everyone for participating and to echo as well that AI

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 1     offers us the -- we're just at the moment where we can

 2     start to invent what we want to do with the technology

 3     and how we can use it as a tool for creative

 4     experience in a bunch of different ways, and it is a

 5     really exciting moment for all of us who are building

 6     in this space, and I hope that what comes out of this

 7     is a community of people who are building precedent,

 8     deciding what that vocabulary should be and having

 9     rules that allow us to do this in a way that is fair,

10     supportive of those individuals, and brings access to

11     more people, and so thank you.

12            MS. KERN:  Thank you.  And, Kylan, go ahead.

13            MR. GIBBS:  Yeah.  So the one thing I would

14     love to say is I think there's a lot of different ways

15     that AI will be used in the future.  As I mentioned

16     before, there's, I think, a big focus on how this

17     specifically empowers creatives, and I hope that the

18     way that the Copyright Office approaches this is with

19     that in mind and also that companies thinking about

20     this focus on how they extend the capacities of

21     creatives versus, for example, allowing consumers to,

22     you know, just generate a lot more content because I

23     think that ultimately that is where a lot of the value

24     lies in the creative process, is, you know, taking

25     that creative vision, extending that and then pairing
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1   that with, you know, next-generation technologies to

2   ultimately move experiences and content and media

3   forward.

4   And so I know that this is how we're really

5   thinking about it as like a new extended paintbrush

6   for creatives and designing our entire IP protections

7   and everything for our users around that, and I think

8   that it would go a long way for creatives to feel

9   comfortable as well using these tools knowing that

10   they maintain ownership over that content but also

11   that companies have good guidelines in actually how to

12   approach this so that they know how to make sure that

13   the creatives maintain their ownership and feel

14   empowered to use these as tools and not feel like

15   they're a competing option for the creative process

16   itself. Thank you.

17   MS. KERN: Thank you very much. And Cherie?

18   MS. HU: Yeah, just a few closing

19   statements, and, yeah, thanks again for having all of

20   us. One, yeah, to reiterate, like, the human-centric

21   aspect, I think in the media, there's a lot of

22   conversion about, like, AI replacing humans, AI, you

23   know, replacing us in our work, that I guess AI at

24   least for now is not like fully autonomous like that.

25   Usually, if AI is, like, replacing some human, there's

         1   also a human behind it and there's human intent behind

         2   it, so we are, you know, yeah, talking about, like,

         3   humans interacting with each other, so I definitely

         4   just wanted to -- in terms of, like, how we talk about

         5   this technology, definitely there's still humans at

         6   the helm. It's not AI just like acting by itself in

         7   kind of a macro, you know, economic context.

         8   And then, secondly, yeah, this is less sets

         9   of policy but more about, like, culture. I think

        10   what's great about this conversation and I think what

        11   will help drive better policy is definitely creating a

        12   culture of, again, yeah, artists and developers and

        13   founders kind of starting that conversation

        14   proactively about how they can work together much

        15   earlier in the process instead of being purely

        16   reactive to, you know, tech companies and founders

        17   kind of just, you know, running with whatever tool or

        18   model that they're working with.

        19   The current AI moment actually strikes me

        20   as, like, leaning much more to that culture compared

        21   to kind of earlier movements in the history of music

        22   and tech and media, so I'm very excited about that and

        23   glad we're all doing that. I would just encourage

        24   that more as these policies develop. Thank you.

        25   MS. KERN: Thank you. And then, Kimberly,

1   would you like to close us out on behalf of DGA?

2   MS. GOLDFARB: Sure, briefly. Well, thank

3   you for organizing this panel. You know, this is all

4   just a very new area. Our priority is to protect

5   filmmakers, but, you know, we caution and should be

6   prudent not to make any sort of mistakes when thinking

7   about new legislation or policy or guidelines. Thank

8   you again for your time.

9   MS. CHAPUIS: Thank you. This concludes our

10   second segment. We will take a very short five-minute

11   break and return for the final segment.

12   (Whereupon, a brief recess was taken.)

13   MS. BLATCHLY: Welcome back, everyone. My

14   name is Joanna Blatchly. I'm an attorney-advisor in

15   our Office of the General Counsel, and we will begin

16   our final session shortly. For those of you who are

17   just joining us, a few Zoom housekeeping announcements

18   before we get started. If you are joining this

19   session but not for this particular session, please

20   keep your camera off and your mic on mute. We are

21   recording today's session, and the recording will be

22   available on our website. The transcription function

23   has also been activated.

24   In this session, we will ask each of our

25   speakers to give brief remarks on the subject of

1   artificial intelligence and visual art. Each person

2   will be limited to two minutes, and the moderators

3   will be watching the time. We will call on the

4   speakers in the order listed on the agenda, so, Ryan,

5   could you begin?

6   MR. ABBOTT: Well, thank you to the

7   Copyright Office for inviting me to speak today and

8   for its public engagement on this important topic. I

9   think the framing of AI as just a tool is misleading.

10   Of course, AI is a tool in the sense that it only

11   completes tasks people ask it to complete, hopefully,

12   and in the sense that it was made by people, although

13   AI can code reasonably well now, but at some level,

14   we're starting with something made by a person,

15   although that person may be many people spread over

16   time and space with no way of attributing an AI

17   behavior to a specific person.

18   But AI is not a tool like a pencil is a tool

19   in that it can partially or entirely automate the

20   generation of a creative work. The activity that used

21   to make a person an author is now in some cases being

22   done entirely by an AI and now being done on a

23   widespread level with a growing variety of systems

24   that are publicly available online and in some cases

25   free of charge.

1   Of course, right now, AI is largely being

2   used to augment human creativity and the generation of

3   a new work involves a mix of human and AI activity,

4   but sometimes everything traditionally created is

5   being done by the AI. In asking where to draw the

6   line, this, of course, could be a very difficult

7   activity, but it is one that courts are experienced

8   doing where multiple people have conflicting

9   authorship claims. I think the <u>Zarya of the Dawn</u>

10   decision was consistent with the Copyright Office's

11   human authorship policy, but it shows both the

12   procedural and substantive problems with that policy.

13   Procedurally, the office wants applicants to

14   disclose the role of AI but at the risk of threatening

15   their own registrations. I submit that many

16   applicants are likely not to be sufficiently

17   knowledgeable about this requirement and not to be

18   fully candid. But the bigger problem isn't with the

19   office asking for transparency. It's with the

20   requirement itself, which is based on dicta from 19th

21   century case law -- 20th century, 19th century.

22   People should not have to be concerned that the use of

23   AI in the creative process is going to render AI

24   output unprotectable.

25   This would directly contradict the purpose

1   of the Copyright Act, which the Supreme Court has

2   repeatedly held is to benefit the American public by

3   promoting the generation and dissemination of creative

4   works. Allowing the protection of AI-generated works

5   as the United Kingdom does, for instance, would

6   encourage the use and development of creative AI

7   systems that would result in more public benefit, and

8   it would likewise encourage the distribution of AI-

9   generated works. Nowhere in the Copyright Act does it

10   state that there is a human authorship requirement,

11   and corporate authorship has been a fixture of U.S.

12   copyright law for more than a century.

13   I would thus urge the office to reconsider

14   its human authorship policy to help ensure that the

15   United States stays at the forefront of the creative

16   industries and AI development. Thank you.

17   MS. BLATCHLY: Thank you. And next we have

18   Juan.

19   MR. CALLE: Hello. Thank you. So, from my

20   point of view as a freelancer, and I've heard people

21   pointing this out as well, this is not about the

22   creation, helping the creativity. This is an

23   economical problem that we're going to be facing since

24   there will be a devaluation all across the board of

25   the creative industry, so it will be a complex problem

1   if copyright is not held specifically by people just

2   generating or painting, not generating, painting or

3   creating their own images.

4   If you generate an image and you don't have

5   any human input after that, that will be devastating

6   for a lot of freelancers, for instance. So I pledge

7   the Copyright Office to please have that into

8   consideration. There will be a substantial

9   devaluation for every freelancer all across the world

10   even though this is a very U.S.-generated problem. So

11   thank you very much.

12   MS. BLATCHLY: Thank you. Next, we have

13   Alex.

14   MR. COX: Hi there. My name is Alex Cox. I

15   am a writer and a film director. Among the films that

16   I've made are *Repo Man*, *Sid and Nancy*, *Walker*,

17   *Tombstone Rashomon.* I want to talk about a film that

18   I made in 1983, which is called *Repo Man*. I am the

19   original author of the screenplay. The screenplay has

20   reverted to me, so I am the copyright holder of the

21   screenplay in the U.S. The film is under copyright by

22   Universal Pictures. In preparation for this panel, I

23   asked a friend at the University of Colorado to use

24   his AI system and to see if it could produce for me an

25   outline of a screenplay called *Repo Man on Mars*, and

1   the AI system did so.

2   He sent it to me. Where do I begin with the

3   breaches of copyright? Which breaches of copyright

4   should I talk about first? The theft of the plot, the

5   scenes, individual sequences? Even the character

6   names were used by the AI system, and this wasn't some

7   rinky-dink little AI system. This was ChatGPT 4,

8   which is owned by a company called OpenAI. OpenAI is

9   49 percent owned by Microsoft, 49 percent owned by a

10   number of institutional oligarchs, including Elon

11   Musk. So, when my copyright material was --

12   (Technical interference.)

13   MS. BLATCHLY: It looks like we may have

14   lost Alex, so, Alex, are you back?

15   MR. COX: Can you hear me now?

16   MS. BLATCHLY: Yes, we can hear you.

17   MR. COX: Am I back? I was cut off, how

18   strange. Where was I? Oh, I was talking about how

19   OpenAI is a company, a multibillion dollar company

20   owned partially by Bill Gates and Microsoft and partly

21   by Elon Musk, and when OpenAI scraped the internet, as

22   they put it, to educate their AI system, they didn't

23   just Hoover up my film. They accessed masses of

24   copyright material, non-fiction works, pieces of

25   music, works of art, all were Hoovered up by OpenAI,

1   and all are being now offered for profit via this

2   company.

3   This couldn't have been done, this breach of

4   copyright couldn't have been done without the massive

5   scraping of the internet. It wasn't done for fair use

6   because it was done for a commercial purpose.

7   Therefore, Microsoft, Musk, and their colleagues broke

8   the law. The AI companies have engaged in a massive

9   copyright theft, and I'm just looking at a tiny corner

10   of it. So what John August of the Writers Guild said

11   is entirely true. If AI isn't reined in and if

12   copyright theft via AI isn't prevented, writers are

13   going to produce the technicians who attempt to fix

14   the copyright violations which AI has produced in an

15   exchange of work.

16   The only solution to this problem is to re-

17   scrape the internet and remove all copyright material

18   from the database to which AI has access, and in

19   closing, I would say that earlier on one of the first

20   speakers today said that Quentin Tarantino and Francis

21   Coppola were heroes of Hollywood because, apparently,

22   they encouraged plagiarism. They did no such thing.

23   Coppola and Quentin Tarantino have become wealthy and

24   successful film directors thanks to their talents but

25   also thanks to the copyright regime, which has

1   protected them and their films.

2   This is what the Writers Guild are fighting

3   for. This is what I'm asking you to fight for because

4   let's face it. The big media companies, the studios,

5   the record companies, the streaming companies, the big

6   six publishers are all in bed with these artificial

7   intelligence companies anyway, so we look to you as

8   creative people, as artists, we look to you, the U.S.

9   Copyright Office, to safeguard our copyrights. Thank

10   you very much.

11   MS. BLATCHLY: Thank you. And next we have

12   Mounir.

13   MR. IBRAHIM: Hello. Thank you very much.

14   My name is Mounir Ibrahim. I'm the Executive Vice

15   President of Truepic. Truepic is a technology company

16   based in southern California, and we are focused on

17   digital content transparency and authenticity. We've

18   long been concerned about the ease of which our

19   sensory reality can be deceived through things called

20   cheap fakes, which are rudimentary changes to images

21   and videos, then deep fakes, which is the obviously

22   synthesis of videos and images, and, of course, the

23   now explosion and proliferation of generative AI

24   tools, which create synthetic images, videos, and

25   digital content.

1   There's a growing industry of transparency

2   and authenticity, and that's the reason I'm speaking

3   here today. We firmly believe that adding

4   transparency and authenticity to digital content will

5   have significant value when it comes to issues related

6   to copyright attribution and ownership.

7   We are a proud founding member of the

8   Coalition for Content Provenance and Authenticity, the

9   C2PA. That is the world's first standards body that

10   created an open standard for transparency and

11   authenticity in digital content. This is not

12   hyperbole. This is an existing standard. It is on

13   the 1.3 version, and it is being used in a variety of

14   areas today. One of the most notable is Adobe Firefly

15   and the Adobe suite of products.

16   This open standard can be added to any

17   generative AI output. Last month, Truepic released

18   the world's first transparent deep fake with Revel.ai

19   in Amsterdam and Nina Schick in London. This is an

20   example, a model on how attribution and a tamper

21   evident seal could be added to generative AI outputs

22   that give attribution and ownership to the people who

23   created it, give the option not to train on those

24   outputs to those creators, and also, perhaps most

25   importantly, give transparency to content consumers so

1   that they know that the output that they're looking at

2   or the content they're looking at has or was created

3   by generative AI.

4   This will be an incredibly useful feature as

5   we have this discussion today and future discussions.

6   When we can think about how we can mark things, mark

7   training data, you could do that in the 1.3 specs so

8   that it is not actually trained on by those platforms

9   that adopt the standard, and we can help creators

10   attribute and market their content, and I already

11   noted the transparency, which is incredibly important

12   for the protection of our informational ecosystem.

13   I would encourage the Copyright Office to

14   engage with the Coalition for Content Provenance and

15   Authenticity. There are a variety of ways in which

16   they can engage and learn more about the standard and

17   how it can be applied. I would also encourage the

18   folks on this call to look into this open standards

19   body in which anybody can join and you can join at a

20   completely free level under the Linux Foundation. So

21   I hope this is helpful, and I look forward to further

22   discussion. Over.

23   MS. BLATCHLY: Thank you. And next we have

24   Eduardo.

25   MR. SALAZAR: There we are. Okay. Sorry

1   for that. I didn't notice I was on mute. Okay. My

2   name is Eduardo Salazar. I'm the CEO of Forctis AG,

3   which is a (inaudible) space company, technology

4   company, and in the same way as Mounir, we are working

5   on technology to effectively provide transparency and,

6   you know, provide creators equal choice, the choice of

7   whether their content can be freely used or not. I've

8   been taking a lot of notes throughout the panel today,

9   and as it has been related, it's very clear that AI

10   and copyright protections and audiovisual works have a

11   very intimate relationship.

12   All of us are very much aware that AI can

13   generate original or derivative works independently,

14   which raise questions about whether copyright should

15   be attributed to the AI system, to the content

16   creator, or to the person or organization that

17   employed the AI model. Also, as it was related today,

18   determining fair use is another big challenge simply

19   because of all of the nuances influencing fair use,

20   such as the purpose and characters of use, the nature

21   of the copyrighted work, the amount and substantiality

22   of the content used, and ultimately its market impact.

23   So, on the one part, it's quite clear that

24   AI systems provide a great tool for audiovisual

25   creators and not just in terms of productivity, which

1   is perhaps the most promotable standard benefit. On

2   the other, it's also plainly evident that such

3   benefits come with issues that must be adequately

4   addressed, and I'll try to be quick.

5   Firstly, those around liability for

6   copyright infringement is essential, I believe, to

7   strike the right balance between robust protection and

8   undue restriction on use of rights.

9   Secondly, the accessibility to AI-generated

10   work, particularly in education, research, and

11   cultural preservation, which was not that much talked

12   about today, and the use of copyright material in such

13   productions. Once again, a balance should be struck

14   between protecting copyright and enabling the broad

15   dissemination and use of knowledge, the promotion of

16   creativity and of innovation. It is also key that

17   companies deploying AI systems are fully transparent

18   about the source of content used for training such

19   systems, how these systems operate, how decisions are

20   made, and how to address errors or disputes.

21   Finally, perhaps the most obvious and yet

22   most neglected aspect is how to ensure that original

23   content creators are able to choose how their content

24   is managed by those developing or using AI systems and

25   depending on the content's choice whether the access

1   to a fair compensation for the work used in such

2   relevant instances is effectively made. Thank you

3   very much for having me.

4   MS. BLATCHLY: Thank you. And our last

5   speaker for this panel, Stephen?

6   MR. TAYLOR: Hi. I'm Stephen James Taylor.

7   I'm a TV/film composer, concert composer, and

8   sometimes filmmaker, and I feel that one of the good

9   things about the emergence of generative AI is that

10   it's forcing us to define what it means to be human.

11   What's the difference on one hand between like gen AI

12   rapidly gathering relevant data and parsing it into an

13   audio or visual product and on the other hand the

14   organic processing of the same data set through years

15   of emotional life experience.

16   Can an AI algorithm help us as artists to

17   convey deep feelings? The answer is yes, just like

18   existing technologies do now. But will it soon be

19   able to bypass the entire arduous life experience

20   process and just create the whole thing for us? If

21   yes, how do we evaluate the artistic worth and

22   ownership issues?

23   I'm also a member of the music branch of the

24   Motion Picture Academy, and recently there was a

25   discussion among some of the members about, you know,

1   anticipating the day when there would be an AI score

2   generated for a film. Would that be disqualified?

3   So there's a continuum of something that's

4   fully automated and then something that's done by hand

5   with talent and training, and then there's stuff in

6   between where you're using the AI for certain tasks,

7   and it's a very gray area as to how you evaluate where

8   to draw those lines, and an example of a gray area,

9   that's just one example of a gray area. So, overall,

10   my take is this, is that human artists, as human

11   artists, our judgment calls are largely physiological.

12   Our bodies tell us when something's "right." With AI,

13   remove the physio and just keep the logical. All

14   mind, no body. AI algorithms don't have adrenal

15   glands to get excited when a new -- a great idea

16   emerges. Yet it has already shown the ability to

17   produce viable works of audio and visual art.

18   So, in conclusion, I have basically three

19   questions that I do not have the answers to because

20   one thing we can count on is that there will be

21   unforeseen consequences of this, both really good and

22   really bad, so the three questions are, in all of this

23   discussion about AI, what is it we're assuming? Two,

24   what are we leaving out? And three, what is it we

25   really want from it? And I think we each need to

1   determine where we stand on these as the sand is

2   already shifting beneath our feet. Thank you.

3   MS. BLATCHLY: Thank you, and thank you to

4   all of the speakers on this session.

5   And with that, I'm going to turn it back to

6   Emily for closing remarks.

7   MS. CHAPUIS: Thank you to all of our

8   speakers, our listeners, and our moderators today.

9   This has been an interesting and engaging

10   conversation, and we at the Copyright Office

11   appreciate the perspectives that each of you has

12   shared. We will consider them as we continue our

13   initiative to examine copyright law and policy issues

14   raised by artificial intelligence technology.

15   Our next and final listening session focuses

16   on music and sound recordings and will be held on

17   Wednesday, May 31, 2023. You can find more details

18   about this session and our broader AI initiative on

19   our website at copyright.gov/ai. The Office will be

20   providing additional opportunities for those

21   interested in artificial intelligence to share your

22   perspectives with us. That concludes our listening

23   session, and we look forward to hearing from you in

24   the future. Thank you.

25   //

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 1                    (Whereupon, at 4:00 p.m., the listening
 2          session in the above-entitled matter adjourned.)
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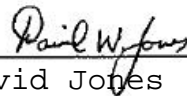
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                 Audiovisual Works Listening Session

HEARING DATE: May 17, 2023

LOCATION: Washington, D.C.

        I hereby certify that the proceedings and

evidence are contained fully and accurately on the

tapes and notes reported by me at the hearing in the

above case before The Library of Congress, U.S.

Copyright Office.

                    Date: May 17, 2023

                    _____
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